

AMENDED IN SENATE MARCH 24, 2011

AMENDED IN SENATE MARCH 17, 2011

AMENDED IN SENATE MARCH 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 103

Introduced by Committee on Budget (Blumenfield (Chair), Alejo, Allen, Brownley, Buchanan, Butler, Cedillo, Chesbro, Dickinson, Feuer, Gordon, Huffman, Mitchell, Monning, and Swanson)

January 10, 2011

An act to amend Sections 12009, 12201, 12204, 12207, 12242, 12251, 12253, 12254, 12257, 12258, 12260, 12301, 12302, 12303, 12304, 12305, 12307, 12412, 12413, 12421, 12422, 12423, 12427, 12428, 12429, 12431, 12433, 12434, 12491, 12493, 12494, 12601, 12602, 12631, 12632, 12636, 12636.5, 12679, 12681, 12801, 12951, 12977, 12983, 12984, 13108, 17276.1, 17276.20, 23101, 24416.1, 24416.20, and 25128 of, to amend and repeal Sections 17053.33, 17053.34, 17053.45, 17053.46, 17053.47, 17053.70, 17053.74, 17053.75, 17235, 17267.2, 17267.6, 17268, 17276.2, 17276.4, 17276.5, 17276.6, 23612.2, 23622.7, 23622.8, 23633, 23634, 23645, 23646, 24356.6, 24356.7, 24356.8, 24384.5, 24416.2, 24416.4, 24416.5, and 24416.6 of, to amend, repeal, and add Section 25136 of, to add Sections 17053.31 and 23611 to, to repeal Section 25128.5 of, and to repeal and add Sections 17276.22 and 24416.22 of, the Revenue and Taxation Code, to amend Sections 1661, 4601, 5902.5, and 9552 of the Vehicle Code, and to amend Section 14301.11 of the Welfare and Institutions Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 103, as amended, Committee on Budget. Taxation: personal income and corporation taxes: managed care plan taxes.

(1) The Personal Income Tax Law and the Corporation Tax Law allow for various tax credits and deductions in computing the taxes imposed by those laws, relating to enterprise zones, targeted tax areas, local agency military base recovery areas, manufacturing enhancement areas, and net operating losses.

This bill would make these provisions inoperative for taxable years beginning on or after January 1, 2011, and would repeal these provisions as of December 1, 2011. This bill would also prevent carryovers for taxable years beginning on or after January 1, 2011, for specified provisions. This bill would delete obsolete references to conform to these changes.

(2) Existing law allows individual and corporate taxpayers to utilize net operating losses and carryovers and carrybacks of those losses for purposes of offsetting their individual and corporate tax liabilities. Existing law, for net operating losses incurred in taxable years beginning on or after January 1, 2008, provides a carryover period of 20 years and allows net operating losses attributable to taxable years beginning on or after January 1, 2011, to be carrybacks to each of the preceding 2 taxable years, as provided.

This bill would recalculate elected net operating loss carryovers available, under specified provisions that have been repealed by this bill, by applying the net operating loss rules applicable to the taxable year in which the net operating loss was incurred.

(3) The Corporation Tax Law imposes taxes measured by income and, in the case of a business with income derived from or attributable to sources both within and without this state, apportions the income between this state and other states and foreign countries in accordance with a specified 4-factor formula based on the property, payroll, and sales within and without this state, except that in the case of an apportioning trade or business that derives more than 50% of its gross business receipts from conducting one or more qualified business activities, as defined, business income is apportioned in accordance with a specified 3-factor formula. That law, for taxable years beginning on or after January 1, 2011, allows a taxpayer to have that income apportioned in accordance with a single sales factor formula, except as provided, pursuant to an irrevocable annual election, as specified. That

law also provides that sales of tangible and intangible personal property are in this state in accordance with specified criteria.

This bill would, for taxable years beginning or after January 1, 2011, revise the rules which determine whether a taxpayer is doing business within this state, revise the provisions which determine whether specific sales occur in this state, and require a taxpayer, except as provided, to apportion income in accordance with a single sales factor.

(4) Existing law requires, until July 1, 2011, every return required to be filed with the State Insurance Commissioner pursuant to provisions governing taxes on the total operating revenue of Medi-Cal managed care plans to be signed by the insurer or the Medi-Cal managed care plan or an executive officer of the insurer or the plan and to be made under oath or contain a written declaration that is made under penalty of perjury.

This bill would, instead, require every return required to be filed with the State Insurance Commissioner pursuant to provisions governing taxes on the total operating revenue of Medi-Cal managed care plans to be made under oath or contain a written declaration that is made under penalty of perjury until January 1, 2014. By expanding the crime of perjury, this bill would impose a state-mandated local program.

(5) *Existing law generally requires the vehicle license fee to be paid to the Department of Motor Vehicles at the time required for renewal or registration of the vehicle.* Existing law establishes fees for original and renewal registration of vehicles to be collected by the Department of Motor Vehicles. Existing law requires the department, with a specified exception, to notify the registered owner of each vehicle of the date that registration renewal fees for the vehicle are due, at least 60 days prior to that due date, and to indicate the fact that the required notice was mailed by a notation in the department's records.

This bill would, commencing on June 8, 2011, and operative until January 1, 2012, reduce the department's time period for notification that vehicle registration renewal fees are due to 30 days prior to the due date, *thus requiring the vehicle license fee also to be due on that date.*

(6) Existing law requires that the renewal of registration for a vehicle that is either currently registered or for which a specified certification is filed be obtained not more than 75 days prior to the expiration of the current registration or certification.

This bill would, commencing on June 8, 2011, and operative until July 1, 2011, instead apply the above-specified requirement only to the renewal of registration for any vehicle that expires on or before June

30, 2011, and would require the renewal of registration for a vehicle that expires on or after July 1, 2011, or for which a specified certification is filed, to be obtained not more than 15 days prior to the expiration of the current registration or certification, *thus requiring the vehicle license fee also to be due on that date.*

(7) Existing law requires that if an application for a registration transaction is filed with the Department of Motor Vehicles during the 30 days immediately preceding the date of expiration of registration of the vehicle, the application be accompanied by the full renewal fees for the ensuing registration year in addition to any other fees that are due and payable.

This bill would, commencing on the date that this bill becomes operative and remaining operative until July 1, 2011, reduce the time period to 10 days immediately preceding the date of expiration of registration of the vehicle, *thus requiring the vehicle license fee also to be due on that date.*

(8) Existing law provides that fees are delinquent if an application for renewal of registration, or an application for renewal of special license plates, is made after midnight of the expiration date of the registration or special plates, or 60 days after the date the registered owner is notified by the Department of Motor Vehicles, whichever is later.

This bill would, commencing on June 8, 2011, and operative until January 1, 2012, reduce the time period to 30 days after the date the registered owner is notified by the department, *thus requiring the vehicle license fee also to be due on that date.*

(9) Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified, low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Under existing law, one of the methods by which Medi-Cal services are provided is pursuant to contracts with various types of managed care plans. Existing law imposes various taxes, including a tax at a specified rate on the gross premiums of an insurer, as defined, and, until July 1, 2011, on the total operating revenue, as specified, of a Medi-Cal managed care plan, as defined. Existing law continuously appropriates the revenues derived from the tax on Medi-Cal managed care plans for specified purposes.

This bill would extend the imposition of the tax on the total operating revenue of Medi-Cal managed care plans until January 1, 2014, and

make other conforming changes. By extending the imposition of a tax whose revenues are continuously appropriated, this bill would make an appropriation.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(11) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

(12) This bill would declare that it is to take immediate effect as an urgency statute and a bill providing for appropriations related to the Budget Bill.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12009 of the Revenue and Taxation Code
2 is amended to read:
3 12009. (a) “Medi-Cal managed care plan” or “plan” means
4 any individual, organization, or entity, other than an insurer as
5 described in Section 12003 or a dental managed care plan as
6 described in Section 14087.46 of the Welfare and Institutions
7 Code, that enters into a contract with the State Department of
8 Health Care Services pursuant to Article 2.7 (commencing with
9 Section 14087.3), Article 2.8 (commencing with Section 14087.5),
10 Article 2.81 (commencing with Section 14087.96), Article 2.9
11 (commencing with Section 14088), or Article 2.91 (commencing
12 with Section 14089) of Chapter 7 of, or pursuant to Article 1
13 (commencing with Section 14200) or Article 7 (commencing with

1 Section 14490) of Chapter 8 of, Part 3 of Division 9 of the Welfare
2 and Institutions Code.

3 (b) This section shall become inoperative on January 1, 2014,
4 and, as of July 1, 2014, is repealed, unless a later enacted statute,
5 that becomes operative on or before July 1, 2014, deletes or extends
6 the dates on which it becomes inoperative and is repealed.

7 SEC. 2. Section 12201 of the Revenue and Taxation Code, as
8 added by Section 31 of Chapter 717 of the Statutes of 2010, is
9 amended to read:

10 12201. (a) Every insurer and Medi-Cal managed care plan
11 doing business in this state shall annually pay to the state a tax on
12 the bases, at the rates, and subject to the deductions from the tax
13 hereinafter specified. For purposes of the tax imposed by this
14 chapter, “insurer” shall be deemed to include a home protection
15 company as defined in Section 12740 of the Insurance Code.

16 (b) Notwithstanding Section 13340 of the Government Code,
17 the revenues derived from the imposition of the tax by this chapter
18 on Medi-Cal managed care plans are hereby continuously
19 appropriated as follows:

20 (1) A percentage of the revenues derived from the imposition
21 of the tax by this chapter on Medi-Cal managed care plans equal
22 to the difference between 100 percent and the applicable federal
23 medical assistance percentage (FMAP) to the department for
24 purposes of the Medi-Cal program.

25 (2) After deducting the revenues appropriated pursuant to
26 paragraph (1), any remaining revenue to the Managed Risk Medical
27 Insurance Board for purposes of the Healthy Families Program.

28 (c) The Insurance Commissioner shall report the amount of
29 revenue derived from the tax imposed on Medi-Cal managed care
30 plans pursuant to this section to the California Health and Human
31 Services Agency, the Joint Legislative Budget Committee, and the
32 Department of Finance.

33 (d) Notwithstanding any other law, the Controller may use the
34 funds in the Children’s Health and Human Services Special Fund
35 for cashflow loans to the General Fund as provided in Sections
36 16310 and 16381 of the Government Code.

37 (e) This section shall become inoperative on January 1, 2014,
38 and, as of July 1, 2014, is repealed, unless a later enacted statute,
39 that becomes operative on or before July 1, 2014, deletes or extends
40 the dates on which it becomes inoperative and is repealed.

1 SEC. 3. Section 12201 of the Revenue and Taxation Code, as
2 amended by Section 32 of Chapter 717 of the Statutes of 2010, is
3 amended to read:

4 12201. (a) Every insurer doing business in this state shall
5 annually pay to the state a tax on the bases, at the rates, and subject
6 to the deductions from the tax hereinafter specified. For purposes
7 of the tax imposed by this chapter, “insurer” shall be deemed to
8 include a home protection company as defined in Section 12740
9 of the Insurance Code.

10 (b) This section shall become operative on January 1, 2014.

11 SEC. 4. Section 12204 of the Revenue and Taxation Code, as
12 amended by Section 33 of Chapter 717 of the Statutes of 2010, is
13 amended to read:

14 12204. (a) The tax imposed on insurers by this chapter is in
15 lieu of all other taxes and licenses, state, county, and municipal,
16 upon those insurers and their property, except:

17 (1) Taxes upon their real estate.

18 (2) Any retaliatory exactions imposed by paragraph (3) of
19 subdivision (f) of Section 28 of Article XIII of the Constitution.

20 (3) The tax on ocean marine insurance.

21 (4) Motor vehicle and other vehicle registration license fees and
22 any other tax or license fee imposed by the state upon vehicles,
23 motor vehicles or the operation thereof.

24 (5) That each corporate or other attorney-in-fact of a reciprocal
25 or interinsurance exchange shall be subject to all taxes imposed
26 upon corporations or others doing business in the state, other than
27 taxes on income derived from its principal business as
28 attorney-in-fact.

29 (b) This section shall not apply to any Medi-Cal managed care
30 plan and to any tax imposed on that plan by this chapter.

31 (c) This section shall become inoperative on January 1, 2014,
32 and, as of July 1, 2014, is repealed, unless a later enacted statute,
33 that becomes operative on or before July 1, 2014, deletes or extends
34 the dates on which it becomes inoperative and is repealed.

35 SEC. 5. Section 12204 of the Revenue and Taxation Code, as
36 amended by Section 34 of Chapter 717 of the Statutes of 2010, is
37 amended to read:

38 12204. (a) The tax imposed on insurers by this chapter is in
39 lieu of all other taxes and licenses, state, county, and municipal,
40 upon those insurers and their property, except:

1 (1) Taxes upon their real estate.

2 (2) Any retaliatory exactions imposed by paragraph (3) of
3 subdivision (f) of Section 28 of Article XIII of the California
4 Constitution.

5 (3) The tax on ocean marine insurance.

6 (4) Motor vehicle and other vehicle registration license fees and
7 any other tax or license fee imposed by the state upon vehicles,
8 motor vehicles or the operation thereof.

9 (5) That each corporate or other attorney-in-fact of a reciprocal
10 or interinsurance exchange shall be subject to all taxes imposed
11 upon corporations or others doing business in the state, other than
12 taxes on income derived from its principal business as
13 attorney-in-fact.

14 (b) This section shall become operative on January 1, 2014.

15 SEC. 6. Section 12207 of the Revenue and Taxation Code is
16 amended to read:

17 12207. (a) Notwithstanding any other provision of this part,
18 no credit shall be allowed under Section 12206, 12208, or 12209
19 against the tax imposed on Medi-Cal managed care plans pursuant
20 to Section 12201.

21 (b) This section shall become inoperative on January 1, 2014,
22 and, as of July 1, 2014, is repealed, unless a later enacted statute,
23 that becomes operative on or before July 1, 2014, deletes or extends
24 the dates on which it becomes inoperative and is repealed.

25 SEC. 7. Section 12242 of the Revenue and Taxation Code is
26 amended to read:

27 12242. This article shall become inoperative on January 1,
28 2014, and, as of July 1, 2014, is repealed, unless a later enacted
29 statute, that becomes operative on or before July 1, 2014, deletes
30 or extends the dates on which it becomes inoperative and is
31 repealed.

32 SEC. 8. Section 12251 of the Revenue and Taxation Code, as
33 amended by Section 37 of Chapter 717 of the Statutes of 2010, is
34 amended to read:

35 12251. (a) For the calendar year 1970, and each calendar year
36 thereafter, insurers transacting insurance in this state and whose
37 annual tax for the preceding calendar year was five thousand dollars
38 (\$5,000) or more shall make prepayments of the annual tax for the
39 current calendar year imposed by Section 28 of Article XIII of the
40 California Constitution and this part, provided that no prepayments

1 shall be made with respect to the tax on ocean marine insurance
2 underwriting profit or any retaliatory tax.

3 (b) Medi-Cal managed care plans shall make prepayments of
4 the tax imposed by Section 12201 for the current calendar year,
5 except that no prepayments shall be required prior to the effective
6 date of the act adding this subdivision, and no penalties and interest
7 shall be imposed pursuant to Section 12261 for not making those
8 prepayments.

9 (c) This section shall become inoperative on January 1, 2014,
10 and, as of July 1, 2014, is repealed, unless a later enacted statute,
11 that becomes operative on or before July 1, 2014, deletes or extends
12 the dates on which it becomes inoperative and is repealed.

13 SEC. 9. Section 12251 of the Revenue and Taxation Code, as
14 amended by Section 38 of Chapter 717 of the Statutes of 2010, is
15 amended to read:

16 12251. (a) For the calendar year 1970, and each calendar year
17 thereafter, insurers transacting insurance in this state and whose
18 annual tax for the preceding calendar year was five thousand dollars
19 (\$5,000) or more shall make prepayments of the annual tax for the
20 current calendar year imposed by Section 28 of Article XIII of the
21 California Constitution and this part, provided that no prepayments
22 shall be made with respect to the tax on ocean marine insurance
23 underwriting profit or any retaliatory tax.

24 (b) This section shall become operative on January 1, 2014.

25 SEC. 10. Section 12253 of the Revenue and Taxation Code,
26 as amended by Section 39 of Chapter 717 of the Statutes of 2010,
27 is amended to read:

28 12253. (a) Each insurer and Medi-Cal managed care plan
29 required to make prepayments shall remit them on or before each
30 of the dates of April 1st, June 1st, September 1st, and December
31 1st of the current calendar year. Remittances for prepayments shall
32 be made payable to the Controller and shall be delivered to the
33 office of the commissioner, accompanied by a prepayment form
34 prescribed by the commissioner.

35 (b) This section shall become inoperative on January 1, 2014,
36 and, as of July 1, 2014, is repealed, unless a later enacted statute,
37 that becomes operative on or before July 1, 2014, deletes or extends
38 the dates on which it becomes inoperative and is repealed.

1 SEC. 11. Section 12253 of the Revenue and Taxation Code,
2 as amended by Section 40 of Chapter 717 of the Statutes of 2010,
3 is amended to read:

4 12253. (a) Each insurer required to make prepayments shall
5 remit them on or before each of the dates of April 1st, June 1st,
6 September 1st, and December 1st of the current calendar year.
7 Remittances for prepayments shall be made payable to the
8 Controller and shall be delivered to the office of the commissioner,
9 accompanied by a prepayment form prescribed by the
10 commissioner.

11 (b) This section shall become operative on January 1, 2014.

12 SEC. 12. Section 12254 of the Revenue and Taxation Code,
13 as amended by Section 41 of Chapter 717 of the Statutes of 2010,
14 is amended to read:

15 12254. (a) (1) For each insurer, the amount of each
16 prepayment shall be 25 percent of the amount of the annual
17 insurance tax liability reported on the return of the insurer for the
18 preceding calendar year.

19 (2) For each Medi-Cal managed care plan, the amount of each
20 prepayment shall be 25 percent of the amount of tax the plan
21 estimates as the amount of tax imposed by Section 12201 with
22 respect to the plan.

23 (b) In establishing the prepayment amount of an insurer that
24 has acquired the business of another insurer, the amount of tax
25 liability of the acquiring insurer reported for the preceding calendar
26 year shall be deemed to include the amount of tax liability of the
27 acquired insurer reported for that year.

28 (c) This section shall become inoperative on January 1, 2014,
29 and, as of July 1, 2014, is repealed, unless a later enacted statute,
30 that becomes operative on or before July 1, 2014, deletes or extends
31 the dates on which it becomes inoperative and is repealed.

32 SEC. 13. Section 12254 of the Revenue and Taxation Code,
33 as amended by Section 42 of Chapter 717 of the Statutes of 2010,
34 is amended to read:

35 12254. (a) The amount of each prepayment shall be 25 percent
36 of the amount of the annual insurance tax liability reported on the
37 return of the insurer for the preceding calendar year.

38 (b) In establishing the prepayment amount of an insurer that
39 has acquired the business of another insurer, the amount of tax
40 liability of the acquiring insurer reported for the preceding calendar

1 year shall be deemed to include the amount of tax liability of the
2 acquired insurer reported for that year.

3 (c) This section shall become operative on January 1, 2014.

4 SEC. 14. Section 12257 of the Revenue and Taxation Code,
5 as amended by Section 43 of Chapter 717 of the Statutes of 2010,
6 is amended to read:

7 12257. (a) If the total amount of prepayments for any calendar
8 year exceeds the amount of annual tax for that year, the excess
9 shall be treated as an overpayment of annual tax and, at the election
10 of the insurer or Medi-Cal managed care plan, may be credited
11 against the amounts due and payable for the first prepayment of
12 the following year. Any amount of the overpayment not so credited
13 shall be allowed as a credit or refund under Article 2 (commencing
14 with Section 12977) of Chapter 7 of this part.

15 (b) This section shall become inoperative on January 1, 2014,
16 and, as of July 1, 2014, is repealed, unless a later enacted statute,
17 that becomes operative on or before July 1, 2014, deletes or extends
18 the dates on which it becomes inoperative and is repealed.

19 SEC. 15. Section 12257 of the Revenue and Taxation Code,
20 as amended by Section 44 of Chapter 717 of the Statutes of 2010,
21 is amended to read:

22 12257. (a) If the total amount of prepayments for any calendar
23 year exceeds the amount of annual tax for that year, the excess
24 shall be treated as an overpayment of annual tax and, at the election
25 of the insurer, may be credited against the amounts due and payable
26 for the first prepayment of the following year. Any amount of the
27 overpayment not so credited shall be allowed as a credit or refund
28 under Article 2 (commencing with Section 12977) of Chapter 7
29 of this part.

30 (b) This section shall become operative on January 1, 2014.

31 SEC. 16. Section 12258 of the Revenue and Taxation Code,
32 as amended by Section 45 of Chapter 717 of the Statutes of 2010,
33 is amended to read:

34 12258. (a) Any insurer or Medi-Cal managed care plan that
35 fails to pay any prepayment within the time required shall pay a
36 penalty of 10 percent of the amount of the required prepayment,
37 plus interest at the modified adjusted rate per month, or fraction
38 thereof, established pursuant to Section 6591.5, from the due date
39 of the prepayment until the date of payment but not for any period
40 after the due date of the annual tax. Assessments of prepayment

1 deficiencies may be made in the manner provided by deficiency
2 assessments of the annual tax.

3 (b) This section shall become inoperative on January 1, 2014,
4 and, as of July 1, 2014, is repealed, unless a later enacted statute,
5 that becomes operative on or before July 1, 2014, deletes or extends
6 the dates on which it becomes inoperative and is repealed.

7 SEC. 17. Section 12258 of the Revenue and Taxation Code,
8 as amended by Section 46 of Chapter 717 of the Statutes of 2010,
9 is amended to read:

10 12258. (a) Any insurer that fails to pay any prepayment within
11 the time required shall pay a penalty of 10 percent of the amount
12 of the required prepayment, plus interest at the modified adjusted
13 rate per month, or fraction thereof, established pursuant to Section
14 6591.5, from the due date of the prepayment until the date of
15 payment but not for any period after the due date of the annual
16 tax. Assessments of prepayment deficiencies may be made in the
17 manner provided by deficiency assessments of the annual tax.

18 (b) This section shall become operative on January 1, 2014.

19 SEC. 18. Section 12260 of the Revenue and Taxation Code,
20 as amended by Section 47 of Chapter 717 of the Statutes of 2010,
21 is amended to read:

22 12260. (a) Notwithstanding any other provision of this article,
23 the commissioner may relieve an insurer or Medi-Cal managed
24 care plan of its obligation to make prepayments where the insurer
25 or Medi-Cal managed care plan establishes to the satisfaction of
26 the commissioner that the insurer has ceased to transact insurance
27 in this state or the Medi-Cal managed care plan has ceased to
28 operate a plan in this state, or the insurer's or Medi-Cal managed
29 care plan's annual tax for the current year will be less than five
30 thousand dollars (\$5,000).

31 (b) This section shall become inoperative on January 1, 2014,
32 and, as of July 1, 2014, is repealed, unless a later enacted statute,
33 that becomes operative on or before July 1, 2014, deletes or extends
34 the dates on which it becomes inoperative and is repealed.

35 SEC. 19. Section 12260 of the Revenue and Taxation Code,
36 as amended by Section 48 of Chapter 717 of the Statutes of 2010,
37 is amended to read:

38 12260. (a) Notwithstanding any other provision of this article,
39 the commissioner may relieve an insurer of its obligation to make
40 prepayments where the insurer establishes to the satisfaction of

1 the commissioner that either the insurer has ceased to transact
2 insurance in this state, or the insurer's annual tax for the current
3 year will be less than five thousand dollars (\$5,000).

4 (b) This section shall become operative on January 1, 2014.

5 SEC. 20. Section 12301 of the Revenue and Taxation Code,
6 as amended by Section 49 of Chapter 717 of the Statutes of 2010,
7 is amended to read:

8 12301. (a) The taxes imposed upon insurers by Section 28 of
9 Article XIII of the California Constitution and this part, except
10 with respect to taxes on ocean marine insurance and retaliatory
11 taxes, are due and payable annually on or before April 1st of the
12 year following the calendar year in which the insurer engaged in
13 the business of insurance or transacted insurance in this state. The
14 taxes imposed with respect to ocean marine insurance are due and
15 payable on or before June 15th of that year.

16 (b) With respect to Medi-Cal managed care plans, the taxes
17 imposed by Section 12201 shall be due and payable on or before
18 April 1st of the year following the calendar year in which the plan
19 contracted with the State Department of Health Care Services as
20 described in Section 12009.

21 (c) This section shall become inoperative on January 1, 2014,
22 and, as of July 1, 2014, is repealed, unless a later enacted statute,
23 that becomes operative on or before July 1, 2014, deletes or extends
24 the dates on which it becomes inoperative and is repealed.
25 However, any tax imposed by Section 12201 shall continue to be
26 due and payable until the tax is paid.

27 SEC. 21. Section 12301 of the Revenue and Taxation Code,
28 as amended by Section 50 of Chapter 717 of the Statutes of 2010,
29 is amended to read:

30 12301. (a) The taxes imposed upon insurers by Section 28 of
31 Article XIII of the California Constitution and this part, except
32 with respect to taxes on ocean marine insurance and retaliatory
33 taxes, are due and payable annually on or before April 1st of the
34 year following the calendar year in which the insurer engaged in
35 the business of insurance or transacted insurance in this state. The
36 taxes imposed with respect to ocean marine insurance are due and
37 payable on or before June 15th of that year.

38 (b) This section shall become operative on January 1, 2014.

SEC. 22. Section 12302 of the Revenue and Taxation Code, as amended by Section 51 of Chapter 717 of the Statutes of 2010, is amended to read:

12302. (a) On or before April 1st (or June 15th with respect to taxes on ocean marine insurance) every person that is subject to any tax imposed by Section 28 of Article XIII of the California Constitution or this part, in respect to the preceding calendar year shall file, in duplicate, a tax return with the commissioner in the form as the commissioner may prescribe. The return shall show that information pertaining to its insurance business, or in the case of a Medi-Cal managed care plan, pertaining to contracts for providing services as described in Section 12009, in this state as will reflect the basis of its tax as set forth in Chapter 2 (commencing with Section 12071) and Chapter 3 (commencing with Section 12201) of this part, the computation of the amount of tax for the period covered by the return, the total amount of any tax prepayments made pursuant to Article 5 (commencing with Section 12251) of Chapter 3 of this part, and any other information as the commissioner may require to carry out the purposes of this part. Separate returns shall be filed with respect to the following kinds of insurance:

- (1) Life insurance (or life insurance and disability insurance).
 - (2) Ocean marine insurance.
 - (3) Title insurance.
 - (4) Insurance other than life insurance (or life insurance and disability insurance), ocean marine insurance or title insurance.
- (b) This section shall become inoperative on January 1, 2014, and, as of July 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before July 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 23. Section 12302 of the Revenue and Taxation Code, as amended by Section 52 of Chapter 717 of the Statutes of 2010, is amended to read:

12302. (a) On or before April 1st (or June 15th with respect to taxes on ocean marine insurance) every person that is subject to any tax imposed by Section 28 of Article XIII of the California Constitution or this part, in respect to the preceding calendar year shall file, in duplicate, an insurance tax return with the commissioner in the form as the commissioner may prescribe. The return shall show that information pertaining to its insurance

1 business in this state as will reflect the basis of its tax as set forth
2 in Chapter 2 (commencing with Section 12071) and Chapter 3
3 (commencing with Section 12201) of this part, the computation
4 of the amount of tax for the period covered by the return, the total
5 amount of any tax prepayments made pursuant to Article 5
6 (commencing with Section 12251) of Chapter 3 of this part, and
7 any other information as the commissioner may require to carry
8 out the purposes of this part. Separate returns shall be filed with
9 respect to the following kinds of insurance:

- 10 (1) Life insurance (or life insurance and disability insurance).
- 11 (2) Ocean marine insurance.
- 12 (3) Title insurance.
- 13 (4) Insurance other than life insurance (or life insurance and
- 14 disability insurance), ocean marine insurance or title insurance.

15 (b) This section shall become operative on January 1, 2014.

16 SEC. 24. Section 12303 of the Revenue and Taxation Code,
17 as amended by Section 53 of Chapter 717 of the Statutes of 2010,
18 is amended to read:

19 12303. (a) Every return required by this article to be filed with
20 the commissioner shall be signed by the insurer or Medi-Cal
21 managed care plan or an executive officer of the insurer or plan
22 and shall be made under oath or contain a written declaration that
23 it is made under penalty of perjury. A return of a foreign insurer
24 may be signed and verified by its manager residing within this
25 state. A return of an alien insurer may be signed and verified by
26 the United States manager of the insurer.

27 (b) This section shall become inoperative on January 1, 2014,
28 and, as of July 1, 2014, is repealed, unless a later enacted statute,
29 that becomes operative on or before July 1, 2014, deletes or extends
30 the dates on which it becomes inoperative and is repealed.

31 SEC. 25. Section 12303 of the Revenue and Taxation Code,
32 as amended by Section 54 of Chapter 717 of the Statutes of 2010,
33 is amended to read:

34 12303. (a) Every return required by this article to be filed with
35 the commissioner shall be signed by the insurer or an executive
36 officer of the insurer and shall be made under oath or contain a
37 written declaration that it is made under penalty of perjury. A
38 return of a foreign insurer may be signed and verified by its
39 manager residing within this state. A return of an alien insurer may
40 be signed and verified by the United States manager of the insurer.

1 (b) This section shall become operative on January 1, 2014.

2 SEC. 26. Section 12304 of the Revenue and Taxation Code,
3 as amended by Section 55 of Chapter 717 of the Statutes of 2010,
4 is amended to read:

5 12304. (a) Blank forms of returns shall be furnished by the
6 commissioner on application, but failure to secure the form shall
7 not relieve any insurer or Medi-Cal managed care plan from
8 making or filing a timely return.

9 (b) This section shall become inoperative on January 1, 2014,
10 and, as of July 1, 2014, is repealed, unless a later enacted statute,
11 that becomes operative on or before July 1, 2014, deletes or extends
12 the dates on which it becomes inoperative and is repealed.

13 SEC. 27. Section 12304 of the Revenue and Taxation Code,
14 as amended by Section 56 of Chapter 717 of the Statutes of 2010,
15 is amended to read:

16 12304. (a) Blank forms of returns shall be furnished by the
17 commissioner on application, but failure to secure the form shall
18 not relieve any insurer from making or filing a timely return.

19 (b) This section shall become operative on January 1, 2014.

20 SEC. 28. Section 12305 of the Revenue and Taxation Code,
21 as amended by Section 57 of Chapter 717 of the Statutes of 2010,
22 is amended to read:

23 12305. (a) The insurer or Medi-Cal managed care plan required
24 to file a return shall deliver the return in duplicate, together with
25 a remittance payable to the Controller, for the amount of tax
26 computed and shown thereon, less any prepayments made pursuant
27 to Article 5 (commencing with Section 12251) of Chapter 3 of this
28 part, to the office of the commissioner.

29 (b) This section shall become inoperative on January 1, 2014,
30 and, as of July 1, 2014, is repealed, unless a later enacted statute,
31 that becomes operative on or before July 1, 2014, deletes or extends
32 the dates on which it becomes inoperative and is repealed.

33 SEC. 29. Section 12305 of the Revenue and Taxation Code,
34 as amended by Section 58 of Chapter 717 of the Statutes of 2010,
35 is amended to read:

36 12305. (a) The insurer required to file a return shall deliver
37 the return in duplicate, together with a remittance payable to the
38 Controller, for the amount of tax computed and shown thereon,
39 less any prepayments made pursuant to Article 5 (commencing

1 with Section 12251) of Chapter 3 of this part, to the office of the
2 commissioner.

3 (b) This section shall become operative on January 1, 2014.

4 SEC. 30. Section 12307 of the Revenue and Taxation Code,
5 as amended by Section 59 of Chapter 717 of the Statutes of 2010,
6 is amended to read:

7 12307. (a) Any insurer or Medi-Cal managed care plan to
8 which an extension is granted shall pay, in addition to the tax,
9 interest at the modified adjusted rate per month, or fraction thereof,
10 established pursuant to Section 6591.5, from April 1st until the
11 date of payment.

12 (b) This section shall become inoperative on January 1, 2014,
13 and, as of July 1, 2014, is repealed, unless a later enacted statute,
14 that becomes operative on or before July 1, 2014, deletes or extends
15 the dates on which it becomes inoperative and is repealed.

16 SEC. 31. Section 12307 of the Revenue and Taxation Code,
17 as amended by Section 60 of Chapter 717 of the Statutes of 2010,
18 is amended to read:

19 12307. (a) Any insurer that is granted an extension shall pay,
20 in addition to the tax, interest at the modified adjusted rate per
21 month, or fraction thereof, established pursuant to Section 6591.5,
22 from April 1st until the date of payment.

23 (b) This section shall become operative on January 1, 2014.

24 SEC. 32. Section 12412 of the Revenue and Taxation Code,
25 as amended by Section 61 of Chapter 717 of the Statutes of 2010,
26 is amended to read:

27 12412. (a) Upon receipt of the duplicate copy of the return of
28 an insurer or Medi-Cal managed care plan the board shall initially
29 assess the tax in accordance with the data as reported by the insurer
30 or Medi-Cal managed care plan on the return.

31 (b) This section shall become inoperative on January 1, 2014,
32 and, as of July 1, 2014, is repealed, unless a later enacted statute,
33 that becomes operative on or before July 1, 2014, deletes or extends
34 the dates on which it becomes inoperative and is repealed.

35 SEC. 33. Section 12412 of the Revenue and Taxation Code,
36 as amended by Section 62 of Chapter 717 of the Statutes of 2010,
37 is amended to read:

38 12412. (a) Upon receipt of the duplicate copy of the return of
39 an insurer the board shall initially assess the tax in accordance
40 with the data as reported by the insurer on the return.

1 (b) This section shall become operative on January 1, 2014.

2 SEC. 34. Section 12413 of the Revenue and Taxation Code,
3 as amended by Section 63 of Chapter 717 of the Statutes of 2010,
4 is amended to read:

5 12413. (a) The board shall promptly transmit notice of its
6 initial assessment to the commissioner and the Controller, and if
7 the initial assessment differs from the amount computed by the
8 insurer or Medi-Cal managed care plan, notice shall also be given
9 to the insurer or Medi-Cal managed care plan.

10 (b) This section shall become inoperative on January 1, 2014,
11 and, as of July 1, 2014, is repealed, unless a later enacted statute,
12 that becomes operative on or before July 1, 2014, deletes or extends
13 the dates on which it becomes inoperative and is repealed.

14 SEC. 35. Section 12413 of the Revenue and Taxation Code,
15 as amended by Section 64 of Chapter 717 of the Statutes of 2010,
16 is amended to read:

17 12413. (a) The board shall promptly transmit notice of its
18 initial assessment to the commissioner and the Controller, and if
19 the initial assessment differs from the amount computed by the
20 insurer, notice shall also be given to the insurer.

21 (b) This section shall become operative on January 1, 2014.

22 SEC. 36. Section 12421 of the Revenue and Taxation Code,
23 as amended by Section 65 of Chapter 717 of the Statutes of 2010,
24 is amended to read:

25 12421. (a) As soon as practicable after an insurer's, surplus
26 line broker's, or Medi-Cal managed care plan's return is filed, the
27 commissioner shall examine it, together with any information
28 within his or her possession or that may come into his or her
29 possession, and he or she shall determine the correct amount of
30 tax of the insurer, surplus line broker, or Medi-Cal managed care
31 plan.

32 (b) This section shall become inoperative on January 1, 2014,
33 and, as of July 1, 2014, is repealed, unless a later enacted statute,
34 that becomes operative on or before July 1, 2014, deletes or extends
35 the dates on which it becomes inoperative and is repealed.

36 SEC. 37. Section 12421 of the Revenue and Taxation Code,
37 as amended by Section 66 of Chapter 717 of the Statutes of 2010,
38 is amended to read:

39 12421. (a) As soon as practicable after an insurer's or surplus
40 line broker's return is filed, the commissioner shall examine it,

1 together with any information within his or her possession or that
2 may come into his or her possession, and he or she shall determine
3 the correct amount of tax of the insurer or surplus line broker.

4 (b) This section shall become operative on January 1, 2014.

5 SEC. 38. Section 12422 of the Revenue and Taxation Code,
6 as amended by Section 67 of Chapter 717 of the Statutes of 2010,
7 is amended to read:

8 12422. (a) If the commissioner determines that the amount of
9 tax disclosed by the insurer's tax return and assessed by the board
10 is less than the amount of tax disclosed by his or her examination,
11 he or she shall propose, in writing, to the board a deficiency
12 assessment for the difference. The proposal shall set forth the basis
13 for the deficiency assessment and the details of its computation.

14 (b) If the commissioner determines that the amount of tax
15 disclosed by the surplus line broker's tax return is less than the
16 amount of tax disclosed by his or her examination, he or she shall
17 propose, in writing, to the board a deficiency assessment for the
18 difference. The proposal shall set forth the basis for the deficiency
19 assessment and the details of its computation.

20 (c) If the commissioner determines that the amount of tax
21 disclosed by the Medi-Cal managed care plan's tax return is less
22 than the amount of tax disclosed by his or her examination, he or
23 she shall propose, in writing, to the board a deficiency assessment
24 for the difference. The proposal shall set forth the basis for the
25 deficiency assessment and the details of its computation.

26 (d) This section shall become inoperative on January 1, 2014,
27 and, as of July 1, 2014, is repealed, unless a later enacted statute,
28 that becomes operative on or before July 1, 2014, deletes or extends
29 the dates on which it becomes inoperative and is repealed.

30 SEC. 39. Section 12422 of the Revenue and Taxation Code,
31 as amended by Section 68 of Chapter 717 of the Statutes of 2010,
32 is amended to read:

33 12422. (a) If the commissioner determines that the amount of
34 tax disclosed by the insurer's tax return and assessed by the board
35 is less than the amount of tax disclosed by his or her examination,
36 he or she shall propose, in writing, to the board a deficiency
37 assessment for the difference. The proposal shall set forth the basis
38 for the deficiency assessment and the details of its computation.

39 (b) If the commissioner determines that the amount of tax
40 disclosed by the surplus line broker's tax return is less than the

1 amount of tax disclosed by his or her examination, he or she shall
2 propose, in writing, to the board a deficiency assessment for the
3 difference. The proposal shall set forth the basis for the deficiency
4 assessment and the details of its computation.

5 (c) This section shall become operative on January 1, 2014.

6 SEC. 40. Section 12423 of the Revenue and Taxation Code,
7 as amended by Section 69 of Chapter 717 of the Statutes of 2010,
8 is amended to read:

9 12423. (a) If an insurer, surplus line broker, or Medi-Cal
10 managed care plan fails to file a return, the commissioner may
11 require a return by mailing notice to the insurer, surplus line broker,
12 or Medi-Cal managed care plan to file a return by a specified date
13 or he or she may without requiring a return, or upon no return
14 having been filed pursuant to the demand therefor, make an
15 estimate of the amount of tax due for the calendar year or years in
16 respect to which the insurer, surplus line broker, or Medi-Cal
17 managed care plan failed to file the return. The estimate shall be
18 made from any available information which is in the
19 commissioner's possession or may come into his or her possession,
20 and the commissioner shall propose, in writing, to the board a
21 deficiency assessment for the amount of the estimated tax. The
22 proposal shall set forth the basis of the estimate and the details of
23 the computation of the tax.

24 (b) This section shall become inoperative on January 1, 2014,
25 and, as of July 1, 2014, is repealed, unless a later enacted statute,
26 that becomes operative on or before July 1, 2014, deletes or extends
27 the dates on which it becomes inoperative and is repealed.

28 SEC. 41. Section 12423 of the Revenue and Taxation Code,
29 as amended by Section 70 of Chapter 717 of the Statutes of 2010,
30 is amended to read:

31 12423. (a) If an insurer or surplus line broker fails to file a
32 return, the commissioner may require a return by mailing notice
33 to the insurer or surplus line broker to file a return by a specified
34 date or he or she may without requiring a return, or upon no return
35 having been filed pursuant to the demand therefor, make an
36 estimate of the amount of tax due for the calendar year or years in
37 respect to which the insurer or surplus line broker failed to file the
38 return. The estimate shall be made from any available information
39 which is in the commissioner's possession or may come into his
40 or her possession, and the commissioner shall propose, in writing,

1 to the board a deficiency assessment for the amount of the
2 estimated tax. The proposal shall set forth the basis of the estimate
3 and the details of the computation of the tax.

4 (b) This section shall become operative on January 1, 2014.

5 SEC. 42. Section 12427 of the Revenue and Taxation Code,
6 as amended by Section 71 of Chapter 717 of the Statutes of 2010,
7 is amended to read:

8 12427. (a) The board shall promptly notify the insurer, surplus
9 line broker, or Medi-Cal managed care plan of a deficiency
10 assessment made against the insurer, surplus line broker, or
11 Medi-Cal managed care plan.

12 (b) This section shall become inoperative on January 1, 2014,
13 and, as of July 1, 2014, is repealed, unless a later enacted statute,
14 that becomes operative on or before July 1, 2014, deletes or extends
15 the dates on which it becomes inoperative and is repealed.

16 SEC. 43. Section 12427 of the Revenue and Taxation Code,
17 as amended by Section 72 of Chapter 717 of the Statutes of 2010,
18 is amended to read:

19 12427. (a) The board shall promptly notify the insurer or
20 surplus line broker of a deficiency assessment made against the
21 insurer or surplus line broker.

22 (b) This section shall become operative on January 1, 2014.

23 SEC. 44. Section 12428 of the Revenue and Taxation Code,
24 as amended by Section 73 of Chapter 717 of the Statutes of 2010,
25 is amended to read:

26 12428. (a) An insurer, surplus line broker, or Medi-Cal
27 managed care plan against which a deficiency assessment is made
28 under Section 12424 or 12425 may petition for redetermination
29 of the deficiency assessment within 30 days after service upon the
30 insurer, surplus line broker, or Medi-Cal managed care plan of the
31 notice thereof, by filing with the board a written petition setting
32 forth the grounds of objection to the deficiency assessment and
33 the correction sought. At the time the petition is filed with the
34 board, a copy of the petition shall be filed with the commissioner.

35 If a petition for redetermination is not filed within the period
36 prescribed by this section, the deficiency assessment becomes final
37 and due and payable at the expiration of that period.

38 (b) This section shall become inoperative on January 1, 2014,
39 and, as of July 1, 2014, is repealed, unless a later enacted statute,

1 that becomes operative on or before July 1, 2014, deletes or extends
2 the dates on which it becomes inoperative and is repealed.

3 SEC. 45. Section 12428 of the Revenue and Taxation Code,
4 as amended by Section 74 of Chapter 717 of the Statutes of 2010,
5 is amended to read:

6 12428. (a) An insurer or surplus line broker against which a
7 deficiency assessment is made under Section 12424 or 12425 may
8 petition for redetermination of the deficiency assessment within
9 30 days after service upon the insurer or surplus line broker of the
10 notice thereof, by filing with the board a written petition setting
11 forth the grounds of objection to the deficiency assessment and
12 the correction sought. At the time the petition is filed with the
13 board, a copy of the petition shall be filed with the commissioner.

14 If a petition for redetermination is not filed within the period
15 prescribed by this section, the deficiency assessment becomes final
16 and due and payable at the expiration of that period.

17 (b) This section shall become operative on January 1, 2014.

18 SEC. 46. Section 12429 of the Revenue and Taxation Code,
19 as amended by Section 75 of Chapter 717 of the Statutes of 2010,
20 is amended to read:

21 12429. (a) If a petition for redetermination of a deficiency
22 assessment is filed within the time allowed under Section 12428,
23 the board shall reconsider the deficiency assessment and, if the
24 insurer, surplus line broker, or Medi-Cal managed care plan has
25 so requested in the petition, shall grant an oral hearing for the
26 presentation of evidence and argument before the board or its
27 authorized representative. The board shall give the petitioner and
28 the commissioner at least 20 days' notice of the time and place of
29 hearing. The hearing may be continued from time to time as may
30 be necessary.

31 (b) This section shall become inoperative on January 1, 2014,
32 and, as of July 1, 2014, is repealed, unless a later enacted statute,
33 that becomes operative on or before July 1, 2014, deletes or extends
34 the dates on which it becomes inoperative and is repealed.

35 SEC. 47. Section 12429 of the Revenue and Taxation Code,
36 as amended by Section 76 of Chapter 717 of the Statutes of 2010,
37 is amended to read:

38 12429. (a) If a petition for redetermination of a deficiency
39 assessment is filed within the time allowed under Section 12428,
40 the board shall reconsider the deficiency assessment and, if the

insurer or surplus line broker has so requested in the petition, shall grant an oral hearing for the presentation of evidence and argument before the board or its authorized representative. The board shall give the petitioner and the commissioner at least 20 days' notice of the time and place of hearing. The hearing may be continued from time to time as may be necessary.

(b) This section shall become operative on January 1, 2014.

SEC. 48. Section 12431 of the Revenue and Taxation Code, as amended by Section 77 of Chapter 717 of the Statutes of 2010, is amended to read:

12431. (a) The order or decision of the board upon a petition for redetermination of a deficiency assessment becomes final 30 days after service on the insurer, surplus line broker, or Medi-Cal managed care plan of a notice thereof, and any resulting deficiency assessment is due and payable at the time the order or decision becomes final.

(b) This section shall become inoperative on January 1, 2014, and, as of July 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before July 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 49. Section 12431 of the Revenue and Taxation Code, as amended by Section 78 of Chapter 717 of the Statutes of 2010, is amended to read:

12431. (a) The order or decision of the board upon a petition for redetermination of a deficiency assessment becomes final 30 days after service on the insurer or surplus line broker of a notice thereof, and any resulting deficiency assessment is due and payable at the time the order or decision becomes final.

(b) This section shall become operative on January 1, 2014.

SEC. 50. Section 12433 of the Revenue and Taxation Code, as amended by Section 79 of Chapter 717 of the Statutes of 2010, is amended to read:

12433. (a) If before the expiration of the time prescribed in Section 12432 for giving of a notice of deficiency assessment the insurer, surplus line broker, or Medi-Cal managed care plan has consented in writing to the giving of the notice after that time, the notice may be given at any time prior to the expiration of the time agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) This section shall become inoperative on January 1, 2014, and, as of July 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before July 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 51. Section 12433 of the Revenue and Taxation Code, as amended by Section 80 of Chapter 717 of the Statutes of 2010, is amended to read:

12433. (a) If before the expiration of the time prescribed in Section 12432 for giving of a notice of deficiency assessment the insurer or surplus line broker has consented in writing to the giving of the notice after that time, the notice may be given at any time prior to the expiration of the time agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) This section shall become operative on January 1, 2014.

SEC. 52. Section 12434 of the Revenue and Taxation Code, as amended by Section 81 of Chapter 717 of the Statutes of 2010, is amended to read:

12434. (a) Any notice required by this article shall be placed in a sealed envelope, with postage paid, addressed to the insurer, surplus line broker, or Medi-Cal managed care plan at its address as it appears in the records of the commissioner or the board. The giving of notice shall be deemed complete at the time of deposit of the notice in the United States Post Office, or a mailbox, subpost office, substation or mail chute or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of the delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

(b) This section shall become inoperative on January 1, 2014, and, as of July 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before July 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 53. Section 12434 of the Revenue and Taxation Code, as amended by Section 82 of Chapter 717 of the Statutes of 2010, is amended to read:

1 12434. (a) Any notice required by this article shall be placed
2 in a sealed envelope, with postage paid, addressed to the insurer
3 or surplus line broker at its address as it appears in the records of
4 the commissioner or the board. The giving of notice shall be
5 deemed complete at the time of deposit of the notice in the United
6 States Post Office, or a mailbox, subpost office, substation or mail
7 chute or other facility regularly maintained or provided by the
8 United States Postal Service, without extension of time for any
9 reason. In lieu of mailing, a notice may be served personally by
10 delivering to the person to be served and service shall be deemed
11 complete at the time of the delivery. Personal service to a
12 corporation may be made by delivery of a notice to any person
13 designated in the Code of Civil Procedure to be served for the
14 corporation with summons and complaint in a civil action.

15 (b) This section shall become operative on January 1, 2014.

16 SEC. 54. Section 12491 of the Revenue and Taxation Code,
17 as amended by Section 83 of Chapter 717 of the Statutes of 2010,
18 is amended to read:

19 12491. (a) Every tax levied upon an insurer under Article XIII
20 of the California Constitution and this part is a lien upon all
21 property and franchises of every kind and nature belonging to the
22 insurer, and has the effect of a judgment against the insurer.

23 (b) (1) Every tax levied upon a surplus line broker under Part
24 7.5 (commencing with Section 13201) of Division 2 is a lien upon
25 all property and franchises of every kind and nature belonging to
26 the surplus line broker, and has the effect of a judgment against
27 the surplus line broker.

28 (2) A lien levied pursuant to this subdivision shall not exceed
29 the amount of unpaid tax collected by the surplus line broker.

30 (c) (1) Every tax levied upon a Medi-Cal managed care plan
31 under Chapter 1 (commencing with Section 12001) is a lien upon
32 all property and franchises of every kind and nature belonging to
33 the Medi-Cal managed care plan, and has the effect of a judgment
34 against the Medi-Cal managed care plan.

35 (2) A lien levied pursuant to this subdivision shall not exceed
36 the amount of unpaid tax collected by the Medi-Cal managed care
37 plan.

38 (d) This section shall become inoperative on January 1, 2014,
39 and, as of July 1, 2014, is repealed, unless a later enacted statute,

1 that becomes operative on or before July 1, 2014, deletes or extends
2 the dates on which it becomes inoperative and is repealed.

3 SEC. 55. Section 12491 of the Revenue and Taxation Code,
4 as amended by Section 84 of Chapter 717 of the Statutes of 2010,
5 is amended to read:

6 12491. (a) Every tax levied upon an insurer under the
7 provisions of Article XIII of the California Constitution and of
8 this part is a lien upon all property and franchises of every kind
9 and nature belonging to the insurer, and has the effect of a
10 judgment against the insurer.

11 (b) (1) Every tax levied upon a surplus line broker under the
12 provisions of Part 7.5 (commencing with Section 13201) of
13 Division 2 is a lien upon all property and franchises of every kind
14 and nature belonging to the surplus line broker, and has the effect
15 of a judgment against the surplus line broker.

16 (2) A lien levied pursuant to this subdivision shall not exceed
17 the amount of unpaid tax collected by the surplus line broker.

18 (c) This section shall become operative on January 1, 2014.

19 SEC. 56. Section 12493 of the Revenue and Taxation Code,
20 as amended by Section 85 of Chapter 717 of the Statutes of 2010,
21 is amended to read:

22 12493. (a) Every lien has the effect of an execution duly levied
23 against all property of a delinquent insurer, surplus line broker, or
24 Medi-Cal managed care plan.

25 (b) This section shall become inoperative on January 1, 2014,
26 and, as of July 1, 2014, is repealed, unless a later enacted statute,
27 that becomes operative on or before July 1, 2014, deletes or extends
28 the dates on which it becomes inoperative and is repealed.

29 SEC. 57. Section 12493 of the Revenue and Taxation Code,
30 as amended by Section 86 of Chapter 717 of the Statutes of 2010,
31 is amended to read:

32 12493. (a) Every lien has the effect of an execution duly levied
33 against all property of a delinquent insurer or surplus line broker.

34 (b) This section shall become operative on January 1, 2014.

35 SEC. 58. Section 12494 of the Revenue and Taxation Code,
36 as amended by Section 87 of Chapter 717 of the Statutes of 2010,
37 is amended to read:

38 12494. (a) No judgment is satisfied nor lien removed until
39 either:

40 (1) The taxes, interest, penalties, and costs are paid.

1 (2) The insurer's, surplus line broker's, or Medi-Cal managed
2 care plan's property is sold for the payment thereof.

3 (b) This section shall become inoperative on January 1, 2014,
4 and, as of July 1, 2014, is repealed, unless a later enacted statute,
5 that becomes operative on or before July 1, 2014, deletes or extends
6 the dates on which it becomes inoperative and is repealed.

7 SEC. 59. Section 12494 of the Revenue and Taxation Code,
8 as amended by Section 88 of Chapter 717 of the Statutes of 2010,
9 is amended to read:

10 12494. (a) No judgment is satisfied nor lien removed until
11 either:

12 (1) The taxes, interest, penalties, and costs are paid.

13 (2) The insurer's or surplus line broker's property is sold for
14 the payment thereof.

15 (b) This section shall become operative on January 1, 2014.

16 SEC. 60. Section 12601 of the Revenue and Taxation Code,
17 as amended by Section 89 of Chapter 717 of the Statutes of 2010,
18 is amended to read:

19 12601. (a) Amounts of taxes, interest, and penalties not
20 remitted to the commissioner with the original return of the insurer
21 or Medi-Cal managed care plan shall be payable to the Controller.

22 (b) This section shall become inoperative on January 1, 2014,
23 and, as of July 1, 2014, is repealed, unless a later enacted statute,
24 that becomes operative on or before July 1, 2014, deletes or extends
25 the dates on which it becomes inoperative and is repealed.

26 SEC. 61. Section 12601 of the Revenue and Taxation Code,
27 as amended by Section 90 of Chapter 717 of the Statutes of 2010,
28 is amended to read:

29 12601. (a) Amounts of taxes, interest, and penalties not
30 remitted to the commissioner with the original return of the insurer
31 shall be payable to the Controller.

32 (b) This section shall become operative on January 1, 2014.

33 SEC. 62. Section 12602 of the Revenue and Taxation Code,
34 as amended by Section 91 of Chapter 717 of the Statutes of 2010,
35 is amended to read:

36 12602. (a) (1) On and after January 1, 1994, and before
37 January 1, 1995, each insurer whose annual taxes exceed fifty
38 thousand dollars (\$50,000) shall make payment by electronic funds
39 transfer, as defined by Section 45 of the Insurance Code. On and
40 after January 1, 1995, each insurer whose annual taxes exceed

1 twenty thousand dollars (\$20,000) shall make payment by
2 electronic funds transfer. The insurer shall choose one of the
3 acceptable methods described in Section 45 of the Insurance Code
4 for completing the electronic funds transfer.

5 (2) Each Medi-Cal managed care plan shall make payment by
6 electronic funds transfer, as defined by Section 45 of the Insurance
7 Code. The plan shall choose one of the acceptable methods
8 described in Section 45 of the Insurance Code for completing the
9 electronic funds transfer.

10 (b) Payment shall be deemed complete on the date the electronic
11 funds transfer is initiated, if settlement to the state's demand
12 account occurs on or before the banking day following the date
13 the transfer is initiated. If settlement to the state's demand account
14 does not occur on or before the banking day following the date the
15 transfer is initiated, payment shall be deemed to occur on the date
16 settlement occurs.

17 (c) (1) Any insurer or Medi-Cal managed care plan required to
18 remit taxes by electronic funds transfer pursuant to this section
19 that remits those taxes by means other than an appropriate
20 electronic funds transfer, shall be assessed a penalty in an amount
21 equal to 10 percent of the taxes due at the time of the payment.

22 (2) If the Department of Insurance finds that an insurer's or
23 Medi-Cal managed care plan's failure to make payment by an
24 appropriate electronic funds transfer in accordance with subdivision
25 (a) is due to reasonable cause or circumstances beyond the insurer's
26 or Medi-Cal managed care plan's control, and occurred
27 notwithstanding the exercise of ordinary care and in the absence
28 of willful neglect, that insurer or Medi-Cal managed care plan
29 shall be relieved of the penalty provided in paragraph (1).

30 (3) Any insurer or Medi-Cal managed care plan seeking to be
31 relieved of the penalty provided in paragraph (1) shall file with
32 the Department of Insurance a statement under penalty of perjury
33 setting forth the facts upon which the claim for relief is based.

34 (d) This section shall become inoperative on January 1, 2014,
35 and, as of July 1, 2014, is repealed, unless a later enacted statute,
36 that becomes operative on or before July 1, 2014, deletes or extends
37 the dates on which it becomes inoperative and is repealed.

38 SEC. 63. Section 12602 of the Revenue and Taxation Code,
39 as amended by Section 92 of Chapter 717 of the Statutes of 2010,
40 is amended to read:

1 12602. (a) On and after January 1, 1994, and before January
2 1, 1995, each insurer whose annual taxes exceed fifty thousand
3 dollars (\$50,000) shall make payment by electronic funds transfer,
4 as defined by Section 45 of the Insurance Code. On and after
5 January 1, 1995, each insurer whose annual taxes exceed twenty
6 thousand dollars (\$20,000) shall make payment by electronic funds
7 transfer. The insurer shall choose one of the acceptable methods
8 described in Section 45 of the Insurance Code for completing the
9 electronic funds transfer.

10 (b) Payment shall be deemed complete on the date the electronic
11 funds transfer is initiated, if settlement to the state's demand
12 account occurs on or before the banking day following the date
13 the transfer is initiated. If settlement to the state's demand account
14 does not occur on or before the banking day following the date the
15 transfer is initiated, payment shall be deemed to occur on the date
16 settlement occurs.

17 (c) (1) Any insurer required to remit taxes by electronic funds
18 transfer pursuant to this section that remits those taxes by means
19 other than an appropriate electronic funds transfer, shall be assessed
20 a penalty in an amount equal to 10 percent of the taxes due at the
21 time of the payment.

22 (2) If the Department of Insurance finds that an insurer's failure
23 to make payment by an appropriate electronic funds transfer in
24 accordance with subdivision (a) is due to reasonable cause or
25 circumstances beyond the insurer's control, and occurred
26 notwithstanding the exercise of ordinary care and in the absence
27 of willful neglect, that insurer shall be relieved of the penalty
28 provided in paragraph (1).

29 (3) Any insurer seeking to be relieved of the penalty provided
30 in paragraph (1) shall file with the Department of Insurance a
31 statement under penalty of perjury setting forth the facts upon
32 which the claim for relief is based.

33 (d) This section shall become operative on January 1, 2014.

34 SEC. 64. Section 12631 of the Revenue and Taxation Code,
35 as amended by Section 93 of Chapter 717 of the Statutes of 2010,
36 is amended to read:

37 12631. (a) Any insurer or Medi-Cal managed care plan that
38 fails to pay any tax, except a tax determined as a deficiency
39 assessment by the board under Article 3 (commencing with Section
40 12421) of Chapter 4, within the time required, shall pay a penalty

1 of 10 percent of the amount of the tax in addition to the tax, plus
2 interest at the modified adjusted rate per month, or fraction thereof,
3 established pursuant to Section 6591.5, from the due date of the
4 tax until the date of payment.

5 (b) This section shall become inoperative on January 1, 2014,
6 and, as of July 1, 2014, is repealed, unless a later enacted statute,
7 that becomes operative on or before July 1, 2014, deletes or extends
8 the dates on which it becomes inoperative and is repealed.

9 SEC. 65. Section 12631 of the Revenue and Taxation Code,
10 as amended by Section 94 of Chapter 717 of the Statutes of 2010,
11 is amended to read:

12 12631. (a) Any insurer that fails to pay any tax, except a tax
13 determined as a deficiency assessment by the board under Article
14 3 (commencing with Section 12421) of Chapter 4, within the time
15 required, shall pay a penalty of 10 percent of the amount of the
16 tax in addition to the tax, plus interest at the modified adjusted rate
17 per month, or fraction thereof, established pursuant to Section
18 6591.5, from the due date of the tax until the date of payment.

19 (b) This section shall become operative on January 1, 2014.

20 SEC. 66. Section 12632 of the Revenue and Taxation Code,
21 as amended by Section 95 of Chapter 717 of the Statutes of 2010,
22 is amended to read:

23 12632. (a) An insurer or Medi-Cal managed care plan that
24 fails to pay any deficiency assessment when it becomes due and
25 payable shall, in addition to the deficiency assessment, pay a
26 penalty of 10 percent of the amount of the deficiency assessment,
27 exclusive of interest and penalties. The amount of any deficiency
28 assessment, exclusive of penalties, shall bear interest at the
29 modified adjusted rate per month, or fraction thereof, established
30 pursuant to Section 6591.5, from the date on which the amount,
31 or any portion thereof, would have been payable if properly
32 reported and assessed until the date of payment.

33 (b) This section shall become inoperative on January 1, 2014,
34 and, as of July 1, 2014, is repealed, unless a later enacted statute,
35 that becomes operative on or before July 1, 2014, deletes or extends
36 the dates on which it becomes inoperative and is repealed.

37 SEC. 67. Section 12632 of the Revenue and Taxation Code,
38 as amended by Section 96 of Chapter 717 of the Statutes of 2010,
39 is amended to read:

1 12632. (a) An insurer that fails to pay any deficiency
2 assessment when it becomes due and payable shall, in addition to
3 the deficiency assessment, pay a penalty of 10 percent of the
4 amount of the deficiency assessment, exclusive of interest and
5 penalties. The amount of any deficiency assessment, exclusive of
6 penalties, shall bear interest at the modified adjusted rate per
7 month, or fraction thereof, established pursuant to Section 6591.5,
8 from the date on which the amount, or any portion thereof, would
9 have been payable if properly reported and assessed until the date
10 of payment.

11 (b) This section shall become operative on January 1, 2014.

12 SEC. 68. Section 12636 of the Revenue and Taxation Code,
13 as amended by Section 97 of Chapter 717 of the Statutes of 2010,
14 is amended to read:

15 12636. (a) If the board finds that an insurer's or Medi-Cal
16 managed care plan's failure to make a timely return or payment
17 is due to reasonable cause and to circumstances beyond the
18 insurer's or Medi-Cal managed care plan's control, and which
19 occurred despite the exercise of ordinary care and in the absence
20 of willful neglect, the insurer or Medi-Cal managed care plan may
21 be relieved of the penalty provided by Section 12258, 12282,
22 12287, 12631, 12632, or 12633.

23 Any insurer or Medi-Cal managed care plan seeking to be
24 relieved of the penalty shall file with the board a statement under
25 penalty of perjury setting forth the facts upon which the claim for
26 relief is based.

27 (b) This section shall become inoperative on January 1, 2014,
28 and, as of July 1, 2014, is repealed, unless a later enacted statute,
29 that becomes operative on or before July 1, 2014, deletes or extends
30 the dates on which it becomes inoperative and is repealed.

31 SEC. 69. Section 12636 of the Revenue and Taxation Code,
32 as amended by Section 98 of Chapter 717 of the Statutes of 2010,
33 is amended to read:

34 12636. (a) If the board finds that an insurer's failure to make
35 a timely return or payment is due to reasonable cause and to
36 circumstances beyond the insurer's control, and which occurred
37 despite the exercise of ordinary care and in the absence of willful
38 neglect, the insurer may be relieved of the penalty provided by
39 Section 12258, 12282, 12287, 12631, 12632, or 12633.

1 Any insurer seeking to be relieved of the penalty shall file with
2 the board a statement under penalty of perjury setting forth the
3 facts upon which the claim for relief is based.

4 (b) This section shall become operative on January 1, 2014.

5 SEC. 70. Section 12636.5 of the Revenue and Taxation Code,
6 as amended by Section 99 of Chapter 717 of the Statutes of 2010,
7 is amended to read:

8 12636.5. (a) Every payment on an insurer's, surplus line
9 broker's, or Medi-Cal managed care plan's delinquent annual tax
10 shall be applied as follows:

11 (1) First, to any interest due on the tax.

12 (2) Second, to any penalty imposed by this part.

13 (3) The balance, if any, to the tax itself.

14 (b) This section shall become inoperative on January 1, 2014,
15 and, as of July 1, 2014, is repealed, unless a later enacted statute,
16 that becomes operative on or before July 1, 2014, deletes or extends
17 the dates on which it becomes inoperative and is repealed.

18 SEC. 71. Section 12636.5 of the Revenue and Taxation Code,
19 as amended by Section 100 of Chapter 717 of the Statutes of 2010,
20 is amended to read:

21 12636.5. (a) Every payment on an insurer's or surplus line
22 broker's delinquent annual tax shall be applied as follows:

23 (1) First, to any interest due on the tax.

24 (2) Second, to any penalty imposed by this part.

25 (3) The balance, if any, to the tax itself.

26 (b) This section shall become operative on January 1, 2014.

27 SEC. 72. Section 12679 of the Revenue and Taxation Code,
28 as amended by Section 101 of Chapter 717 of the Statutes of 2010,
29 is amended to read:

30 12679. (a) If an insurer's or Medi-Cal managed care plan's
31 right to do business has been forfeited or its corporate powers
32 suspended, service of summons may be made upon the persons
33 designated by law to be served as agents or officers of the insurer
34 or Medi-Cal managed care plan, and these persons are the agents
35 of the insurer or Medi-Cal managed care plan for all purposes
36 necessary in order to prosecute the action. In the case of
37 corporations whose powers have been suspended, the persons
38 constituting the board of directors may defend the action.

39 (b) This section shall become inoperative on January 1, 2014,
40 and, as of July 1, 2014, is repealed, unless a later enacted statute,

1 that becomes operative on or before July 1, 2014, deletes or extends
2 the dates on which it becomes inoperative and is repealed.

3 SEC. 73. Section 12679 of the Revenue and Taxation Code,
4 as amended by Section 102 of Chapter 717 of the Statutes of 2010,
5 is amended to read:

6 12679. (a) If an insurer's right to do business has been forfeited
7 or its corporate powers suspended, service of summons may be
8 made upon the persons designated by law to be served as agents
9 or officers of the insurer, and these persons are the agents of the
10 insurer for all purposes necessary in order to prosecute the action.
11 In the case of corporations whose powers have been suspended,
12 the persons constituting the board of directors may defend the
13 action.

14 (b) This section shall become operative on January 1, 2014.

15 SEC. 74. Section 12681 of the Revenue and Taxation Code,
16 as amended by Section 103 of Chapter 717 of the Statutes of 2010,
17 is amended to read:

18 12681. (a) In the action, a certificate of the Controller or of
19 the secretary of the board, showing unpaid taxes against an insurer
20 or Medi-Cal managed care plan is prima facie evidence of:

- 21 (1) The assessment of the taxes.
- 22 (2) The delinquency.
- 23 (3) The amount of the taxes, interest, and penalties due and
24 unpaid to the state.
- 25 (4) That the insurer or Medi-Cal managed care plan is indebted
26 to the state in the amount of taxes, interest, and penalties appearing
27 unpaid.
- 28 (5) That there has been compliance with all the requirements
29 of law in relation to the assessment of the taxes.

30 (b) This section shall become inoperative on January 1, 2014,
31 and, as of July 1, 2014, is repealed, unless a later enacted statute,
32 that becomes operative on or before July 1, 2014, deletes or extends
33 the dates on which it becomes inoperative and is repealed.

34 SEC. 75. Section 12681 of the Revenue and Taxation Code,
35 as amended by Section 104 of Chapter 717 of the Statutes of 2010,
36 is amended to read:

37 12681. (a) In the action, a certificate of the Controller or of
38 the secretary of the board, showing unpaid taxes against an insurer
39 is prima facie evidence of:

- 40 (1) The assessment of the taxes.

1 (2) The delinquency.

2 (3) The amount of the taxes, interest, and penalties due and
3 unpaid to the state.

4 (4) That the insurer is indebted to the state in the amount of
5 taxes, interest, and penalties appearing unpaid.

6 (5) That there has been compliance with all the requirements
7 of law in relation to the assessment of the taxes.

8 (b) This section shall become operative on January 1, 2014.

9 SEC. 76. Section 12801 of the Revenue and Taxation Code,
10 as amended by Section 105 of Chapter 717 of the Statutes of 2010,
11 is amended to read:

12 12801. (a) Annually, between December 10th and 15th, the
13 Controller shall transmit to the commissioner a statement showing
14 the names of all insurers and Medi-Cal managed care plans that
15 failed to pay on or before December 10th the whole or any portion
16 of the tax that became delinquent in the preceding June or which
17 has been unpaid for more than 30 days from the date it became
18 due and payable as a deficiency assessment under this part or the
19 whole or any part of the interest or penalties due with respect to
20 the tax. The statement shall show the amount of the tax, interest,
21 and penalties due from each insurer or Medi-Cal managed care
22 plan.

23 (b) This section shall become inoperative on January 1, 2014,
24 and, as of July 1, 2014, is repealed, unless a later enacted statute,
25 that becomes operative on or before July 1, 2014, deletes or extends
26 the dates on which it becomes inoperative and is repealed.

27 SEC. 77. Section 12801 of the Revenue and Taxation Code,
28 as amended by Section 106 of Chapter 717 of the Statutes of 2010,
29 is amended to read:

30 12801. (a) Annually, between December 10th and 15th, the
31 Controller shall transmit to the commissioner a statement showing
32 the names of all insurers that failed to pay on or before December
33 10th the whole or any portion of the tax that became delinquent
34 in the preceding June or which has been unpaid for more than 30
35 days from the date it became due and payable as a deficiency
36 assessment under this part or the whole or any part of the interest
37 or penalties due with respect to the tax. The statement shall show
38 the amount of the tax, interest, and penalties due from each insurer.

39 (b) This section shall become operative on January 1, 2014.

1 SEC. 78. Section 12951 of the Revenue and Taxation Code,
2 as amended by Section 107 of Chapter 717 of the Statutes of 2010,
3 is amended to read:

4 12951. (a) If any amount has been illegally assessed, the board
5 shall set forth that fact in its records, certify the amount determined
6 to be assessed in excess of the amount legally assessed and the
7 insurer, surplus line broker, or Medi-Cal managed care plan against
8 which the assessment was made, and authorize the cancellation of
9 the amount upon the records of the Controller and the board. The
10 board shall mail a notice to the insurer, surplus line broker, or
11 Medi-Cal managed care plan of any cancellation authorized. Any
12 proposed determination by the board pursuant to this section with
13 respect to an amount in excess of fifty thousand dollars (\$50,000)
14 shall be available as a public record for at least 10 days prior to
15 the effective date of that determination.

16 (b) This section shall become inoperative on January 1, 2014,
17 and, as of July 1, 2014, is repealed, unless a later enacted statute,
18 that becomes operative on or before July 1, 2014, deletes or extends
19 the dates on which it becomes inoperative and is repealed.

20 SEC. 79. Section 12951 of the Revenue and Taxation Code,
21 as amended by Section 108 of Chapter 717 of the Statutes of 2010,
22 is amended to read:

23 12951. (a) If any amount has been illegally assessed, the board
24 shall set forth that fact in its records, certify the amount determined
25 to be assessed in excess of the amount legally assessed and the
26 insurer or surplus line broker against which the assessment was
27 made, and authorize the cancellation of the amount upon the
28 records of the Controller and the board. The board shall mail a
29 notice to the insurer or surplus line broker of any cancellation
30 authorized. Any proposed determination by the board pursuant to
31 this section with respect to an amount in excess of fifty thousand
32 dollars (\$50,000) shall be available as a public record for at least
33 10 days prior to the effective date of that determination.

34 (b) This section shall become operative on January 1, 2014.

35 SEC. 80. Section 12977 of the Revenue and Taxation Code,
36 as amended by Section 109 of Chapter 717 of the Statutes of 2010,
37 is amended to read:

38 12977. (a) If the board determines that any tax, interest, or
39 penalty has been paid more than once or has been erroneously or
40 illegally collected or computed, the board shall set forth that fact

1 in its records of the board, certify the amount of the taxes, interest,
2 or penalties collected in excess of what was legally due, and from
3 whom they were collected or by whom paid, and certify the excess
4 to the Controller for credit or refund.

5 (b) The Controller upon receipt of a certification for credit or
6 refund shall credit the excess on any amounts then due and payable
7 from the insurer, surplus line broker, or Medi-Cal managed care
8 plan under this part and refund the balance.

9 (c) Any proposed determination by the board pursuant to this
10 section with respect to an amount in excess of fifty thousand dollars
11 (\$50,000) shall be available as a public record for at least 10 days
12 prior to the effective date of that determination.

13 (d) This section shall become inoperative on January 1, 2014,
14 and, as of July 1, 2014, is repealed, unless a later enacted statute,
15 that becomes operative on or before July 1, 2014, deletes or extends
16 the dates on which it becomes inoperative and is repealed.

17 SEC. 81. Section 12977 of the Revenue and Taxation Code,
18 as amended by Section 110 of Chapter 717 of the Statutes of 2010,
19 is amended to read:

20 12977. (a) If the board determines that any tax, interest, or
21 penalty has been paid more than once or has been erroneously or
22 illegally collected or computed, the board shall set forth that fact
23 in its records of the board, certify the amount of the taxes, interest,
24 or penalties collected in excess of what was legally due, and from
25 whom they were collected or by whom paid, and certify the excess
26 to the Controller for credit or refund.

27 (b) The Controller upon receipt of a certification for credit or
28 refund shall credit the excess on any amounts then due and payable
29 from the insurer or surplus line broker under this part and refund
30 the balance.

31 (c) Any proposed determination by the board pursuant to this
32 section with respect to an amount in excess of fifty thousand dollars
33 (\$50,000) shall be available as a public record for at least 10 days
34 prior to the effective date of that determination.

35 (d) This section shall become operative on January 1, 2014.

36 SEC. 82. Section 12983 of the Revenue and Taxation Code,
37 as amended by Section 111 of Chapter 717 of the Statutes of 2010,
38 is amended to read:

39 12983. (a) Interest shall be allowed upon the amount of any
40 overpayment of tax by an insurer or Medi-Cal managed care plan

1 pursuant to this part at the modified adjusted rate per month
2 established pursuant to Section 6591.5, from the first day of the
3 monthly period following the period during which the overpayment
4 was made. For purposes of this section, “monthly period” means
5 the month commencing on the day after the due date of the payment
6 through the same date as the due date in each successive month.
7 In addition, a refund or credit shall be made of any interest imposed
8 upon the claimant with respect to the amount being refunded or
9 credited.

10 The interest shall be paid as follows:

11 (1) In the case of a refund, to the last day of the calendar month
12 following the date upon which the claimant is notified in writing
13 that a claim may be filed or the date upon which the claim is
14 approved by the board, whichever date is the earlier.

15 (2) In the case of a credit, to the same date as that to which
16 interest is computed on the tax or amount against which the credit
17 is applied.

18 (b) This section shall become inoperative on January 1, 2014,
19 and, as of July 1, 2014, is repealed, unless a later enacted statute,
20 that becomes operative on or before July 1, 2014, deletes or extends
21 the dates on which it becomes inoperative and is repealed.

22 SEC. 83. Section 12983 of the Revenue and Taxation Code,
23 as amended by Section 112 of Chapter 717 of the Statutes of 2010,
24 is amended to read:

25 12983. (a) Interest shall be allowed upon the amount of any
26 overpayment of tax by an insurer pursuant to this part at the
27 modified adjusted rate per month established pursuant to Section
28 6591.5, from the first day of the monthly period following the
29 period during which the overpayment was made. For purposes of
30 this section, “monthly period” means the month commencing on
31 the day after the due date of the payment through the same date
32 as the due date in each successive month. In addition, a refund or
33 credit shall be made of any interest imposed upon the claimant
34 with respect to the amount being refunded or credited.

35 The interest shall be paid as follows:

36 (1) In the case of a refund, to the last day of the calendar month
37 following the date upon which the claimant is notified in writing
38 that a claim may be filed or the date upon which the claim is
39 approved by the board, whichever date is the earlier.

1 (2) In the case of a credit, to the same date as that to which
2 interest is computed on the tax or amount against which the credit
3 is applied.

4 (b) This section shall become operative on January 1, 2014.

5 SEC. 84. Section 12984 of the Revenue and Taxation Code,
6 as amended by Section 113 of Chapter 717 of the Statutes of 2010,
7 is amended to read:

8 12984. (a) If the board determines that any overpayment has
9 been made intentionally or made not incident to a bona fide and
10 orderly discharge of a liability reasonably assumed by the insurer,
11 surplus line broker, or Medi-Cal managed care plan to be imposed
12 by law, no interest shall be allowed on the overpayment.

13 (b) If any insurer, surplus line broker, or Medi-Cal managed
14 care plan which has filed a claim for refund requests the board to
15 defer action on its claim, the board, as a condition to deferring
16 action, may require the claimant to waive interest for the period
17 during which the insurer, surplus line broker, or Medi-Cal managed
18 care plan requests the board to defer action on the claim.

19 (c) This section shall become inoperative on January 1, 2014,
20 and, as of July 1, 2014, is repealed, unless a later enacted statute,
21 that becomes operative on or before July 1, 2014, deletes or extends
22 the dates on which it becomes inoperative and is repealed.

23 SEC. 85. Section 12984 of the Revenue and Taxation Code,
24 as amended by Section 114 of Chapter 717 of the Statutes of 2010,
25 is amended to read:

26 12984. (a) If the board determines that any overpayment has
27 been made intentionally or made not incident to a bona fide and
28 orderly discharge of a liability reasonably assumed by the insurer
29 or surplus line broker to be imposed by law, no interest shall be
30 allowed on the overpayment.

31 (b) If any insurer or surplus line broker which has filed a claim
32 for refund requests the board to defer action on its claim, the board,
33 as a condition to deferring action, may require the claimant to
34 waive interest for the period during which the insurer or surplus
35 line broker requests the board to defer action on the claim.

36 (c) This section shall become operative on January 1, 2014.

37 SEC. 86. Section 13108 of the Revenue and Taxation Code,
38 as amended by Section 115 of Chapter 717 of the Statutes of 2010,
39 is amended to read:

1 13108. (a) A judgment shall not be rendered in favor of the
2 plaintiff when the action is brought by or in the name of an assignee
3 of the insurer paying the tax, interest, or penalties, or by any person
4 other than the insurer or Medi-Cal managed care plan that has paid
5 the tax, interest, or penalties.

6 (b) This section shall become inoperative on January 1, 2014,
7 and, as of July 1, 2014, is repealed, unless a later enacted statute,
8 that becomes operative on or before July 1, 2014, deletes or extends
9 the dates on which it becomes inoperative and is repealed.

10 SEC. 87. Section 13108 of the Revenue and Taxation Code,
11 as amended by Section 116 of Chapter 717 of the Statutes of 2010,
12 is amended to read:

13 13108. (a) A judgment shall not be rendered in favor of the
14 plaintiff when the action is brought by or in the name of an assignee
15 of the insurer paying the tax, interest, or penalties, or by any person
16 other than the insurer that has paid the tax, interest, or penalties.

17 (b) This section shall become operative on January 1, 2014.

18 SEC. 88. Section 17053.31 is added to the Revenue and
19 Taxation Code, to read:

20 17053.31. (a) Notwithstanding any other provision or former
21 provision of this part to the contrary, a credit available for carryover
22 under former sections of this part identified in subdivision (b) shall
23 not be allowed to be carried over to any taxable year beginning on
24 or after January 1, 2011.

25 (b) This section shall apply to credit carryovers under the
26 following former sections of this part:

27 (1) Former Section 17052.15, as identified in subparagraph (G)
28 of paragraph (1) of subdivision (c) of Section 17039, as in effect
29 on the effective date of the act adding this section.

30 (2) Former Section 17053.10, as identified in subparagraph (K)
31 of paragraph (1) of subdivision (c) of Section 17039, as in effect
32 on the effective date of the act adding this section.

33 (3) Former Section 17053.17, as identified in subparagraph (M)
34 of paragraph (1) of subdivision (c) of Section 17039, as in effect
35 on the effective date of the act adding this section.

36 SEC. 89. Section 17053.33 of the Revenue and Taxation Code
37 is amended to read:

38 17053.33. (a) For each taxable year beginning on or after
39 January 1, 1998, there shall be allowed as a credit against the “net
40 tax” (as defined in Section 17039) for the taxable year an amount

1 equal to the sales or use tax paid or incurred during the taxable
2 year by the qualified taxpayer in connection with the qualified
3 taxpayer's purchase of qualified property.

4 (b) For purposes of this section:

5 (1) "Qualified property" means property that meets all of the
6 following requirements:

7 (A) Is any of the following:

8 (i) Machinery and machinery parts used for fabricating,
9 processing, assembling, and manufacturing.

10 (ii) Machinery and machinery parts used for the production of
11 renewable energy resources.

12 (iii) Machinery and machinery parts used for either of the
13 following:

14 (I) Air pollution control mechanisms.

15 (II) Water pollution control mechanisms.

16 (iv) Data processing and communications equipment, such as
17 computers, computer-automated drafting systems, copy machines,
18 telephone systems, and faxes.

19 (v) Motion picture manufacturing equipment central to
20 production and post production, such as cameras, audio recorders,
21 and digital image and sound processing equipment.

22 (B) The total cost of qualified property purchased and placed
23 in service in any taxable year that may be taken into account by
24 any qualified taxpayer for purposes of claiming this credit shall
25 not exceed one million dollars (\$1,000,000).

26 (C) The qualified property is used by the qualified taxpayer
27 exclusively in a targeted tax area.

28 (D) The qualified property is purchased and placed in service
29 before the date the targeted tax area designation expires, is revoked,
30 is no longer binding, or becomes inoperative.

31 (2) (A) "Qualified taxpayer" means a person or entity that meets
32 both of the following:

33 (i) Is engaged in a trade or business within a targeted tax area
34 designated pursuant to Chapter 12.93 (commencing with Section
35 7097) of Division 7 of Title 1 of the Government Code.

36 (ii) Is engaged in those lines of business described in Codes
37 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
38 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
39 of the Standard Industrial Classification (SIC) Manual published

1 by the United States Office of Management and Budget, 1987
2 edition.

3 (B) In the case of any pass-through entity, the determination of
4 whether a taxpayer is a qualified taxpayer under this section shall
5 be made at the entity level and any credit under this section or
6 Section 23633 shall be allowed to the pass-through entity and
7 passed through to the partners or shareholders in accordance with
8 applicable provisions of this part or Part 11 (commencing with
9 Section 23001). For purposes of this subparagraph, the term
10 “pass-through entity” means any partnership or S corporation.

11 (3) “Targeted tax area” means the area designated pursuant to
12 Chapter 12.93 (commencing with Section 7097) of Division 7 of
13 Title 1 of the Government Code.

14 (c) If the qualified taxpayer is allowed a credit for qualified
15 property pursuant to this section, only one credit shall be allowed
16 to the taxpayer under this part with respect to that qualified
17 property.

18 (d) If the qualified taxpayer has purchased property upon which
19 a use tax has been paid or incurred, the credit provided by this
20 section shall be allowed only if qualified property of a comparable
21 quality and price is not timely available for purchase in this state.

22 (e) In the case where the credit otherwise allowed under this
23 section exceeds the “net tax” for the taxable year, that portion of
24 the credit that exceeds the “net tax” may be carried over and added
25 to the credit, if any, in the following year, and succeeding years if
26 necessary, until the credit is exhausted. The credit shall be applied
27 first to the earliest taxable years possible.

28 (f) Any qualified taxpayer who elects to be subject to this section
29 shall not be entitled to increase the basis of the qualified property
30 as otherwise required by Section 164(a) of the Internal Revenue
31 Code with respect to sales or use tax paid or incurred in connection
32 with the qualified taxpayer’s purchase of qualified property.

33 (g) (1) The amount of the credit otherwise allowed under this
34 section and Section 17053.34, including any credit carryover from
35 prior years, that may reduce the “net tax” for the taxable year shall
36 not exceed the amount of tax that would be imposed on the
37 qualified taxpayer’s business income attributable to the targeted
38 tax area determined as if that attributable income represented all
39 of the income of the qualified taxpayer subject to tax under this
40 part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the targeted tax area. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (e).

(5) In the event that a credit carryover is allowable under subdivision (e) for any taxable year after the targeted tax area designation has expired, has been revoked, is no longer binding, or has become inoperative, the targeted tax area shall be deemed to remain in existence for purposes of computing the limitation specified in this subdivision.

(h) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1998.

(i) (1) This section shall cease to be operative for taxable years beginning on or after January 1, 2011.

(2) In the case of any portion of a credit available for carryover to a taxable year beginning on or after January 1, 2011, under subdivision (e), as that subdivision read prior to the amendments made by the act adding this subdivision, neither that subdivision nor subdivision (d) of Section 17039 shall apply, and those unused credit amounts shall not be carried over to any taxable year beginning on or after January 1, 2011.

(j) This section shall be repealed as of December 1, 2011.

SEC. 90. Section 17053.34 of the Revenue and Taxation Code is amended to read:

17053.34. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the “net tax” (as defined in Section 17039) to a qualified taxpayer who employs a qualified employee in a targeted tax area during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) “Qualified wages” means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the targeted tax area expiration date. However, wages paid or incurred with respect to qualified

1 employees who are employed by the qualified taxpayer within the
2 targeted tax area within the 60-month period prior to the targeted
3 tax area expiration date shall continue to qualify for the credit
4 under this section after the targeted tax area expiration date, in
5 accordance with all provisions of this section applied as if the
6 targeted tax area designation were still in existence and binding.

7 (2) “Minimum wage” means the wage established by the
8 Industrial Welfare Commission as provided for in Chapter 1
9 (commencing with Section 1171) of Part 4 of Division 2 of the
10 Labor Code.

11 (3) “Targeted tax area expiration date” means the date the
12 targeted tax area designation expires, is revoked, is no longer
13 binding, or becomes inoperative.

14 (4) (A) “Qualified employee” means an individual who meets
15 all of the following requirements:

16 (i) At least 90 percent of his or her services for the qualified
17 taxpayer during the taxable year are directly related to the conduct
18 of the qualified taxpayer’s trade or business located in a targeted
19 tax area.

20 (ii) Performs at least 50 percent of his or her services for the
21 qualified taxpayer during the taxable year in a targeted tax area.

22 (iii) Is hired by the qualified taxpayer after the date of original
23 designation of the area in which services were performed as a
24 targeted tax area.

25 (iv) Is any of the following:

26 (I) Immediately preceding the qualified employee’s
27 commencement of employment with the qualified taxpayer, was
28 a person eligible for services under the federal Job Training
29 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
30 who is receiving, or is eligible to receive, subsidized employment,
31 training, or services funded by the federal Job Training Partnership
32 Act, or its successor.

33 (II) Immediately preceding the qualified employee’s
34 commencement of employment with the qualified taxpayer, was
35 a person eligible to be a voluntary or mandatory registrant under
36 the Greater Avenues for Independence Act of 1985 (GAIN)
37 provided for pursuant to Article 3.2 (commencing with Section
38 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
39 Institutions Code, or its successor.

1 (III) Immediately preceding the qualified employee's
2 commencement of employment with the qualified taxpayer, was
3 an economically disadvantaged individual 14 years of age or older.

4 (IV) Immediately preceding the qualified employee's
5 commencement of employment with the qualified taxpayer, was
6 a dislocated worker who meets any of the following:

7 (aa) Has been terminated or laid off or who has received a notice
8 of termination or layoff from employment, is eligible for or has
9 exhausted entitlement to unemployment insurance benefits, and
10 is unlikely to return to his or her previous industry or occupation.

11 (bb) Has been terminated or has received a notice of termination
12 of employment as a result of any permanent closure or any
13 substantial layoff at a plant, facility, or enterprise, including an
14 individual who has not received written notification but whose
15 employer has made a public announcement of the closure or layoff.

16 (cc) Is long-term unemployed and has limited opportunities for
17 employment or reemployment in the same or a similar occupation
18 in the area in which the individual resides, including an individual
19 55 years of age or older who may have substantial barriers to
20 employment by reason of age.

21 (dd) Was self-employed (including farmers and ranchers) and
22 is unemployed as a result of general economic conditions in the
23 community in which he or she resides or because of natural
24 disasters.

25 (ee) Was a civilian employee of the Department of Defense
26 employed at a military installation being closed or realigned under
27 the Defense Base Closure and Realignment Act of 1990.

28 (ff) Was an active member of the Armed Forces or National
29 Guard as of September 30, 1990, and was either involuntarily
30 separated or separated pursuant to a special benefits program.

31 (gg) Is a seasonal or migrant worker who experiences chronic
32 seasonal unemployment and underemployment in the agriculture
33 industry, aggravated by continual advancements in technology and
34 mechanization.

35 (hh) Has been terminated or laid off, or has received a notice
36 of termination or layoff, as a consequence of compliance with the
37 Clean Air Act.

38 (V) Immediately preceding the qualified employee's
39 commencement of employment with the qualified taxpayer, was
40 a disabled individual who is eligible for or enrolled in, or has

1 completed a state rehabilitation plan or is a service-connected
2 disabled veteran, veteran of the Vietnam era, or veteran who is
3 recently separated from military service.

4 (VI) Immediately preceding the qualified employee's
5 commencement of employment with the qualified taxpayer, was
6 an ex-offender. An individual shall be treated as convicted if he
7 or she was placed on probation by a state court without a finding
8 of guilty.

9 (VII) Immediately preceding the qualified employee's
10 commencement of employment with the qualified taxpayer, was
11 a person eligible for or a recipient of any of the following:

12 (aa) Federal Supplemental Security Income benefits.

13 (bb) Aid to Families with Dependent Children.

14 (cc) Food stamps.

15 (dd) State and local general assistance.

16 (VIII) Immediately preceding the qualified employee's
17 commencement of employment with the qualified taxpayer, was
18 a member of a federally recognized Indian tribe, band, or other
19 group of Native American descent.

20 (IX) Immediately preceding the qualified employee's
21 commencement of employment with the qualified taxpayer, was
22 a resident of a targeted tax area.

23 (X) Immediately preceding the qualified employee's
24 commencement of employment with the taxpayer, was a member
25 of a targeted group as defined in Section 51(d) of the Internal
26 Revenue Code, or its successor.

27 (B) Priority for employment shall be provided to an individual
28 who is enrolled in a qualified program under the federal Job
29 Training Partnership Act or the Greater Avenues for Independence
30 Act of 1985 or who is eligible as a member of a targeted group
31 under the Work Opportunity Tax Credit (Section 51 of the Internal
32 Revenue Code), or its successor.

33 (5) (A) "Qualified taxpayer" means a person or entity that meets
34 both of the following:

35 (i) Is engaged in a trade or business within a targeted tax area
36 designated pursuant to Chapter 12.93 (commencing with Section
37 7097) of Division 7 of Title 1 of the Government Code.

38 (ii) Is engaged in those lines of business described in Codes
39 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
40 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,

1 of the Standard Industrial Classification (SIC) Manual published
2 by the United States Office of Management and Budget, 1987
3 edition.

4 (B) In the case of any passthrough entity, the determination of
5 whether a taxpayer is a qualified taxpayer under this section shall
6 be made at the entity level and any credit under this section or
7 Section 23634 shall be allowed to the passthrough entity and passed
8 through to the partners or shareholders in accordance with
9 applicable provisions of this part or Part 11 (commencing with
10 Section 23001). For purposes of this subdivision, the term
11 “passthrough entity” means any partnership or S corporation.

12 (6) “Seasonal employment” means employment by a qualified
13 taxpayer that has regular and predictable substantial reductions in
14 trade or business operations.

15 (c) If the qualified taxpayer is allowed a credit for qualified
16 wages pursuant to this section, only one credit shall be allowed to
17 the taxpayer under this part with respect to those qualified wages.

18 (d) The qualified taxpayer shall do both of the following:

19 (1) Obtain from the Employment Development Department, as
20 permitted by federal law, the local county or city Job Training
21 Partnership Act administrative entity, the local county GAIN office
22 or social services agency, or the local government administering
23 the targeted tax area, a certification that provides that a qualified
24 employee meets the eligibility requirements specified in clause
25 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
26 Employment Development Department may provide preliminary
27 screening and referral to a certifying agency. The Department of
28 Housing and Community Development shall develop regulations
29 governing the issuance of certificates pursuant to Section 7097 of
30 the Government Code, and shall develop forms for this purpose.

31 (2) Retain a copy of the certification and provide it upon request
32 to the Franchise Tax Board.

33 (e) (1) For purposes of this section:

34 (A) All employees of trades or businesses, which are not
35 incorporated, that are under common control shall be treated as
36 employed by a single taxpayer.

37 (B) The credit, if any, allowable by this section with respect to
38 each trade or business shall be determined by reference to its
39 proportionate share of the expense of the qualified wages giving
40 rise to the credit, and shall be allocated in that manner.

1 (C) Principles that apply in the case of controlled groups of
2 corporations, as specified in subdivision (d) of Section 23634,
3 shall apply with respect to determining employment.

4 (2) If an employer acquires the major portion of a trade or
5 business of another employer (hereinafter in this paragraph referred
6 to as the “predecessor”) or the major portion of a separate unit of
7 a trade or business of a predecessor, then, for purposes of applying
8 this section (other than subdivision (f)) for any calendar year ending
9 after that acquisition, the employment relationship between a
10 qualified employee and an employer shall not be treated as
11 terminated if the employee continues to be employed in that trade
12 or business.

13 (f) (1) (A) If the employment, other than seasonal employment,
14 of any qualified employee, with respect to whom qualified wages
15 are taken into account under subdivision (a) is terminated by the
16 qualified taxpayer at any time during the first 270 days of that
17 employment (whether or not consecutive) or before the close of
18 the 270th calendar day after the day in which that employee
19 completes 90 days of employment with the qualified taxpayer, the
20 tax imposed by this part for the taxable year in which that
21 employment is terminated shall be increased by an amount equal
22 to the credit allowed under subdivision (a) for that taxable year
23 and all prior taxable years attributable to qualified wages paid or
24 incurred with respect to that employee.

25 (B) If the seasonal employment of any qualified employee, with
26 respect to whom qualified wages are taken into account under
27 subdivision (a) is not continued by the qualified taxpayer for a
28 period of 270 days of employment during the 60-month period
29 beginning with the day the qualified employee commences seasonal
30 employment with the qualified taxpayer, the tax imposed by this
31 part, for the taxable year that includes the 60th month following
32 the month in which the qualified employee commences seasonal
33 employment with the qualified taxpayer, shall be increased by an
34 amount equal to the credit allowed under subdivision (a) for that
35 taxable year and all prior taxable years attributable to qualified
36 wages paid or incurred with respect to that qualified employee.

37 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
38 any of the following:

39 (i) A termination of employment of a qualified employee who
40 voluntarily leaves the employment of the qualified taxpayer.

1 (ii) A termination of employment of a qualified employee who,
2 before the close of the period referred to in subparagraph (A) of
3 paragraph (1), becomes disabled and unable to perform the services
4 of that employment, unless that disability is removed before the
5 close of that period and the qualified taxpayer fails to offer
6 reemployment to that employee.

7 (iii) A termination of employment of a qualified employee, if
8 it is determined that the termination was due to the misconduct (as
9 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
10 the California Code of Regulations) of that employee.

11 (iv) A termination of employment of a qualified employee due
12 to a substantial reduction in the trade or business operations of the
13 qualified taxpayer.

14 (v) A termination of employment of a qualified employee, if
15 that employee is replaced by other qualified employees so as to
16 create a net increase in both the number of employees and the
17 hours of employment.

18 (B) Subparagraph (B) of paragraph (1) shall not apply to any
19 of the following:

20 (i) A failure to continue the seasonal employment of a qualified
21 employee who voluntarily fails to return to the seasonal
22 employment of the qualified taxpayer.

23 (ii) A failure to continue the seasonal employment of a qualified
24 employee who, before the close of the period referred to in
25 subparagraph (B) of paragraph (1), becomes disabled and unable
26 to perform the services of that seasonal employment, unless that
27 disability is removed before the close of that period and the
28 qualified taxpayer fails to offer seasonal employment to that
29 qualified employee.

30 (iii) A failure to continue the seasonal employment of a qualified
31 employee, if it is determined that the failure to continue the
32 seasonal employment was due to the misconduct (as defined in
33 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
34 Code of Regulations) of that qualified employee.

35 (iv) A failure to continue seasonal employment of a qualified
36 employee due to a substantial reduction in the regular seasonal
37 trade or business operations of the qualified taxpayer.

38 (v) A failure to continue the seasonal employment of a qualified
39 employee, if that qualified employee is replaced by other qualified

1 employees so as to create a net increase in both the number of
2 seasonal employees and the hours of seasonal employment.

3 (C) For purposes of paragraph (1), the employment relationship
4 between the qualified taxpayer and a qualified employee shall not
5 be treated as terminated by reason of a mere change in the form
6 of conducting the trade or business of the qualified taxpayer, if the
7 qualified employee continues to be employed in that trade or
8 business and the qualified taxpayer retains a substantial interest
9 in that trade or business.

10 (3) Any increase in tax under paragraph (1) shall not be treated
11 as tax imposed by this part for purposes of determining the amount
12 of any credit allowable under this part.

13 (g) In the case of an estate or trust, both of the following apply:

14 (1) The qualified wages for any taxable year shall be apportioned
15 between the estate or trust and the beneficiaries on the basis of the
16 income of the estate or trust allocable to each.

17 (2) Any beneficiary to whom any qualified wages have been
18 apportioned under paragraph (1) shall be treated, for purposes of
19 this part, as the employer with respect to those wages.

20 (h) For purposes of this section, “targeted tax area” means an
21 area designated pursuant to Chapter 12.93 (commencing with
22 Section 7097) of Division 7 of Title 1 of the Government Code.

23 (i) In the case where the credit otherwise allowed under this
24 section exceeds the “net tax” for the taxable year, that portion of
25 the credit that exceeds the “net tax” may be carried over and added
26 to the credit, if any, in succeeding taxable years, until the credit is
27 exhausted. The credit shall be applied first to the earliest taxable
28 years possible.

29 (j) (1) The amount of the credit otherwise allowed under this
30 section and Section 17053.33, including any credit carryover from
31 prior years, that may reduce the “net tax” for the taxable year shall
32 not exceed the amount of tax that would be imposed on the
33 qualified taxpayer’s business income attributable to the targeted
34 tax area determined as if that attributable income represented all
35 of the income of the qualified taxpayer subject to tax under this
36 part.

37 (2) Attributable income shall be that portion of the taxpayer’s
38 California source business income that is apportioned to the
39 targeted tax area. For that purpose, the taxpayer’s business income
40 attributable to sources in this state first shall be determined in

1 accordance with Chapter 17 (commencing with Section 25101) of
2 Part 11. That business income shall be further apportioned to the
3 targeted tax area in accordance with Article 2 (commencing with
4 Section 25120) of Chapter 17 of Part 11, modified for purposes
5 of this section in accordance with paragraph (3).

6 (3) Business income shall be apportioned to the targeted tax
7 area by multiplying the total California business income of the
8 taxpayer by a fraction, the numerator of which is the property
9 factor plus the payroll factor, and the denominator of which is two.
10 For purposes of this paragraph:

11 (A) The property factor is a fraction, the numerator of which is
12 the average value of the taxpayer's real and tangible personal
13 property owned or rented and used in the targeted tax area during
14 the taxable year, and the denominator of which is the average value
15 of all the taxpayer's real and tangible personal property owned or
16 rented and used in this state during the taxable year.

17 (B) The payroll factor is a fraction, the numerator of which is
18 the total amount paid by the taxpayer in the targeted tax area during
19 the taxable year for compensation, and the denominator of which
20 is the total compensation paid by the taxpayer in this state during
21 the taxable year.

22 (4) The portion of any credit remaining, if any, after application
23 of this subdivision, shall be carried over to succeeding taxable
24 years, as if it were an amount exceeding the "net tax" for the
25 taxable year, as provided in subdivision (h).

26 (5) In the event that a credit carryover is allowable under
27 subdivision (h) for any taxable year after the targeted tax area
28 expiration date, the targeted tax area shall be deemed to remain in
29 existence for purposes of computing the limitation specified in
30 this subdivision.

31 (k) (1) This section shall cease to be operative for taxable years
32 beginning on or after January 1, 2011.

33 (2) In the case of any portion of a credit available for carryover
34 to a taxable year beginning on or after January 1, 2011, under
35 subdivision (i), as that subdivision read prior to the amendments
36 made by the act adding this subdivision, neither that subdivision
37 nor subdivision (d) of Section 17039 shall apply, and those unused
38 credit amounts shall not be carried over to any taxable year
39 beginning on or after January 1, 2011.

40 (l) This section shall be repealed as of December 1, 2011.

1 SEC. 91. Section 17053.45 of the Revenue and Taxation Code
2 is amended to read:

3 17053.45. (a) For each taxable year beginning on or after
4 January 1, 1995, there shall be allowed as a credit against the “net
5 tax” (as defined by Section 17039) an amount equal to the sales
6 or use tax paid or incurred by the taxpayer in connection with the
7 purchase of qualified property to the extent that the qualified
8 property does not exceed a value of one million dollars
9 (\$1,000,000).

10 (b) For purposes of this section:

11 (1) “LAMBRA” means a local agency military base recovery
12 area designated in accordance with Section 7114 of the Government
13 Code.

14 (2) “Taxpayer” means a taxpayer that conducts a trade or
15 business within a LAMBRA and, for the first two taxable years,
16 has a net increase in jobs (defined as 2,000 paid hours per employee
17 per year) of one or more employees in the LAMBRA.

18 (A) The net increase in the number of jobs shall be determined
19 by subtracting the total number of full-time employees (defined
20 as 2,000 paid hours per employee per year) the taxpayer employed
21 in this state in the taxable year prior to commencing business
22 operations in the LAMBRA from the total number of full-time
23 employees the taxpayer employed in this state during the second
24 taxable year after commencing business operations in the
25 LAMBRA. For taxpayers who commence doing business in this
26 state with their LAMBRA business operation, the number of
27 employees for the taxable year prior to commencing business
28 operations in the LAMBRA shall be zero. If the taxpayer has a net
29 increase in jobs in the state, the credit shall be allowed only if one
30 or more full-time employees is employed within the LAMBRA.

31 (B) The total number of employees employed in the LAMBRA
32 shall equal the sum of both of the following:

33 (i) The total number of hours worked in the LAMBRA for the
34 taxpayer by employees (not to exceed 2,000 hours per employee)
35 who are paid an hourly wage divided by 2,000.

36 (ii) The total number of months worked in the LAMBRA for
37 the taxpayer by employees who are salaried employees divided
38 by 12.

39 (C) In the case of a taxpayer who first commences doing
40 business in the LAMBRA during the taxable year, for purposes of

1 clauses (i) and (ii), respectively, of subparagraph (B), the divisors
2 “2,000” and “12” shall be multiplied by a fraction, the numerator
3 of which is the number of months of the taxable year that the
4 taxpayer was doing business in the LAMBRA and the denominator
5 of which is 12.

6 (3) “Qualified property” means property that is each of the
7 following:

8 (A) Purchased by the taxpayer for exclusive use in a trade or
9 business conducted within a LAMBRA.

10 (B) Purchased before the date the LAMBRA designation expires,
11 is no longer binding, or becomes inoperative.

12 (C) Any of the following:

13 (i) High technology equipment, including, but not limited to,
14 computers and electronic processing equipment.

15 (ii) Aircraft maintenance equipment, including, but not limited
16 to, engine stands, hydraulic mules, power carts, test equipment,
17 handtools, aircraft start carts, and tugs.

18 (iii) Aircraft components, including, but not limited to, engines,
19 fuel control units, hydraulic pumps, avionics, starts, wheels, and
20 tires.

21 (iv) Section 1245 property, as defined in Section 1245(a)(3) of
22 the Internal Revenue Code.

23 (c) The credit provided under subdivision (a) shall be allowed
24 only for qualified property manufactured in California unless
25 qualified property of a comparable quality and price is not available
26 for timely purchase and delivery from a California manufacturer.

27 (d) In the case where the credit otherwise allowed under this
28 section exceeds the “net tax” for the taxable year, that portion of
29 the credit which exceeds the “net tax” may be carried over and
30 added to the credit, if any, in succeeding years, until the credit is
31 exhausted. The credit shall be applied first to the earliest taxable
32 years possible.

33 (e) Any taxpayer who elects to be subject to this section shall
34 not be entitled to increase the basis of the property as otherwise
35 required by Section 164(a) of the Internal Revenue Code with
36 respect to sales or use tax paid or incurred in connection with the
37 purchase of qualified property.

38 (f) (1) The amount of credit otherwise allowed under this
39 section and Section 17053.46, including any credit carryover from
40 prior years, that may reduce the “net tax” for the taxable year shall

1 not exceed the amount of tax that would be imposed on the
2 taxpayer's business income attributed to a LAMBRA determined
3 as if that attributable income represented all the income of the
4 taxpayer subject to tax under this part.

5 (2) Attributable income is that portion of the taxpayer's
6 California source business income that is apportioned to the
7 LAMBRA. For that purpose, the taxpayer's business income that
8 is attributable to sources in this state shall first be determined in
9 accordance with Chapter 17 (commencing with Section 25101) of
10 Part 11. That business income shall be further apportioned to the
11 LAMBRA in accordance with Article 2 (commencing with Section
12 25120) of Chapter 17 of Part 11, as modified for purposes of this
13 section in accordance with paragraph (3).

14 (3) Income shall be apportioned to a LAMBRA by multiplying
15 the total California business income of the taxpayer by a fraction,
16 the numerator of which is the property factor, plus the payroll
17 factor, and the denominator of which is two. For purposes of this
18 paragraph:

19 (A) The property factor is a fraction, the numerator of which is
20 the average value of the taxpayer's real and tangible personal
21 property owned or rented and used in the LAMBRA during the
22 taxable year, and the denominator of which is the average value
23 of all the taxpayer's real and tangible personal property owned or
24 rented and used in this state during the taxable year.

25 (B) The payroll factor is a fraction, the numerator of which is
26 the total amount paid by the taxpayer in the LAMBRA during the
27 taxable year for compensation, and the denominator of which is
28 the total compensation paid by the taxpayer in this state during the
29 taxable year.

30 (4) The portion of any credit remaining, if any, after application
31 of this subdivision, shall be carried over to succeeding taxable
32 years, as if it were an amount exceeding the "net tax" for the
33 taxable year, as provided in subdivision (d).

34 (g) (1) If the qualified property is disposed of or no longer used
35 by the taxpayer in the LAMBRA, at any time before the close of
36 the second taxable year after the property is placed in service, the
37 amount of the credit previously claimed, with respect to that
38 property, shall be added to the taxpayer's tax liability in the taxable
39 year of that disposition or nonuse.

1 (2) At the close of the second taxable year, if the taxpayer has
2 not increased the number of its employees as determined by
3 paragraph (2) of subdivision (b), then the amount of the credit
4 previously claimed shall be added to the taxpayer's net tax for the
5 taxpayer's second taxable year.

6 (h) If the taxpayer is allowed a credit for qualified property
7 pursuant to this section, only one credit shall be allowed to the
8 taxpayer under this part with respect to that qualified property.

9 (i) The amendments made to this section by the act adding this
10 subdivision shall apply to taxable years beginning on or after
11 January 1, 1998.

12 (j) (1) This section shall cease to be operative for taxable years
13 beginning on or after January 1, 2011.

14 (2) In the case of any portion of a credit available for carryover
15 to a taxable year beginning on or after January 1, 2011, under
16 subdivision (d), as that subdivision read prior to the amendments
17 made by the act adding this subdivision, neither that subdivision
18 nor subdivision (d) of Section 17039 shall apply, and those unused
19 credit amounts shall not be carried over to any taxable year
20 beginning on or after January 1, 2011.

21 (k) This section shall be repealed as of December 1, 2011.

22 SEC. 92. Section 17053.46 of the Revenue and Taxation Code
23 is amended to read:

24 17053.46. (a) For each taxable year beginning on or after
25 January 1, 1995, there shall be allowed as a credit against the "net
26 tax" (as defined in Section 17039) to a qualified taxpayer for hiring
27 a qualified disadvantaged individual or a qualified displaced
28 employee during the taxable year for employment in the LAMBRA.
29 The credit shall be equal to the sum of each of the following:

30 (1) Fifty percent of the qualified wages in the first year of
31 employment.

32 (2) Forty percent of the qualified wages in the second year of
33 employment.

34 (3) Thirty percent of the qualified wages in the third year of
35 employment.

36 (4) Twenty percent of the qualified wages in the fourth year of
37 employment.

38 (5) Ten percent of the qualified wages in the fifth year of
39 employment.

40 (b) For purposes of this section:

1 (1) “Qualified wages” means:

2 (A) That portion of wages paid or incurred by the employer
3 during the taxable year to qualified disadvantaged individuals or
4 qualified displaced employees that does not exceed 150 percent
5 of the minimum wage.

6 (B) The total amount of qualified wages which may be taken
7 into account for purposes of claiming the credit allowed under this
8 section shall not exceed two million dollars (\$2,000,000) per
9 taxable year.

10 (C) Wages received during the 60-month period beginning with
11 the first day the individual commences employment with the
12 taxpayer. Reemployment in connection with any increase, including
13 a regularly occurring seasonal increase, in the trade or business
14 operations of the qualified taxpayer does not constitute
15 commencement of employment for purposes of this section.

16 (D) Qualified wages do not include any wages paid or incurred
17 by the qualified taxpayer on or after the LAMBRA expiration date.
18 However, wages paid or incurred with respect to qualified
19 disadvantaged individuals or qualified displaced employees who
20 are employed by the qualified taxpayer within the LAMBRA within
21 the 60-month period prior to the LAMBRA expiration date shall
22 continue to qualify for the credit under this section after the
23 LAMBRA expiration date, in accordance with all provisions of
24 this section applied as if the LAMBRA designation were still in
25 existence and binding.

26 (2) “Minimum wage” means the wage established by the
27 Industrial Welfare Commission as provided for in Chapter 1
28 (commencing with Section 1171) of Part 4 of Division 2 of the
29 Labor Code.

30 (3) “LAMBRA” means a local agency military base recovery
31 area designated in accordance with Section 7114 of the Government
32 Code.

33 (4) “Qualified disadvantaged individual” means an individual
34 who satisfies all of the following requirements:

35 (A) (i) At least 90 percent of whose services for the taxpayer
36 during the taxable year are directly related to the conduct of the
37 taxpayer’s trade or business located in a LAMBRA.

38 (ii) Who performs at least 50 percent of his or her services for
39 the taxpayer during the taxable year in the LAMBRA.

1 (B) Who is hired by the employer after the designation of the
2 area as a LAMBRA in which the individual's services were
3 primarily performed.

4 (C) Who is any of the following immediately preceding the
5 individual's commencement of employment with the taxpayer:

6 (i) An individual who has been determined eligible for services
7 under the federal Job Training Partnership Act (29 U.S.C. Sec.
8 1501 et seq.).

9 (ii) Any voluntary or mandatory registrant under the Greater
10 Avenues for Independence Act of 1985 as provided pursuant to
11 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
12 3 of Division 9 of the Welfare and Institutions Code.

13 (iii) An economically disadvantaged individual age 16 years or
14 older.

15 (iv) A dislocated worker who meets any of the following
16 conditions:

17 (I) Has been terminated or laid off or who has received a notice
18 of termination or layoff from employment, is eligible for or has
19 exhausted entitlement to unemployment insurance benefits, and
20 is unlikely to return to his or her previous industry or occupation.

21 (II) Has been terminated or has received a notice of termination
22 of employment as a result of any permanent closure or any
23 substantial layoff at a plant, facility, or enterprise, including an
24 individual who has not received written notification but whose
25 employer has made a public announcement of the closure or layoff.

26 (III) Is long-term unemployed and has limited opportunities for
27 employment or reemployment in the same or a similar occupation
28 in the area in which the individual resides, including an individual
29 55 years of age or older who may have substantial barriers to
30 employment by reason of age.

31 (IV) Was self-employed (including farmers and ranchers) and
32 is unemployed as a result of general economic conditions in the
33 community in which he or she resides or because of natural
34 disasters.

35 (V) Was a civilian employee of the Department of Defense
36 employed at a military installation being closed or realigned under
37 the Defense Base Closure and Realignment Act of 1990.

38 (VI) Was an active member of the Armed Forces or National
39 Guard as of September 30, 1990, and was either involuntarily
40 separated or separated pursuant to a special benefits program.

1 (VII) Experiences chronic seasonal unemployment and
2 underemployment in the agriculture industry, aggravated by
3 continual advancements in technology and mechanization.

4 (VIII) Has been terminated or laid off or has received a notice
5 of termination or layoff as a consequence of compliance with the
6 Clean Air Act.

7 (v) An individual who is enrolled in or has completed a state
8 rehabilitation plan or is a service-connected disabled veteran,
9 veteran of the Vietnam era, or veteran who is recently separated
10 from military service.

11 (vi) An ex-offender. An individual shall be treated as convicted
12 if he or she was placed on probation by a state court without a
13 finding of guilty.

14 (vii) A recipient of:

15 (I) Federal Supplemental Security Income benefits.

16 (II) Aid to Families with Dependent Children.

17 (III) Food stamps.

18 (IV) State and local general assistance.

19 (viii) Is a member of a federally recognized Indian tribe, band,
20 or other group of Native American descent.

21 (5) “Qualified taxpayer” means a taxpayer or partnership that
22 conducts a trade or business within a LAMBRA and, for the first
23 two taxable years, has a net increase in jobs (defined as 2,000 paid
24 hours per employee per year) of one or more employees in the
25 LAMBRA.

26 (A) The net increase in the number of jobs shall be determined
27 by subtracting the total number of full-time employees (defined
28 as 2,000 paid hours per employee per year) the taxpayer employed
29 in this state in the taxable year prior to commencing business
30 operations in the LAMBRA from the total number of full-time
31 employees the taxpayer employed in this state during the second
32 taxable year after commencing business operations in the
33 LAMBRA. For taxpayers who commence doing business in this
34 state with their LAMBRA business operation, the number of
35 employees for the taxable year prior to commencing business
36 operations in the LAMBRA shall be zero. If the taxpayer has a net
37 increase in jobs in the state, the credit shall be allowed only if one
38 or more full-time employees is employed within the LAMBRA.

39 (B) The total number of employees employed in the LAMBRA
40 shall equal the sum of both of the following:

1 (i) The total number of hours worked in the LAMBRA for the
2 taxpayer by employees (not to exceed 2,000 hours per employee)
3 who are paid an hourly wage divided by 2,000.

4 (ii) The total number of months worked in the LAMBRA for
5 the taxpayer by employees who are salaried employees divided
6 by 12.

7 (C) In the case of a taxpayer who first commences doing
8 business in the LAMBRA during the taxable year, for purposes of
9 clauses (i) and (ii), respectively, of subparagraph (B), the divisors
10 “2,000” and “12” shall be multiplied by a fraction, the numerator
11 of which is the number of months of the taxable year that the
12 taxpayer was doing business in the LAMBRA and the denominator
13 of which is 12.

14 (6) “Qualified displaced employee” means an individual who
15 satisfies all of the following requirements:

16 (A) Any civilian or military employee of a base or former base
17 who has been displaced as a result of a federal base closure act.

18 (B) (i) At least 90 percent of whose services for the taxpayer
19 during the taxable year are directly related to the conduct of the
20 taxpayer’s trade or business located in a LAMBRA.

21 (ii) Who performs at least 50 percent of his or her services for
22 the taxpayer during the taxable year in a LAMBRA.

23 (C) Who is hired by the employer after the designation of the
24 area in which services were performed as a LAMBRA.

25 (7) “Seasonal employment” means employment by a qualified
26 taxpayer that has regular and predictable substantial reductions in
27 trade or business operations.

28 (8) “LAMBRA expiration date” means the date the LAMBRA
29 designation expires, is no longer binding, or becomes inoperative.

30 (c) For qualified disadvantaged individuals or qualified displaced
31 employees hired on or after January 1, 2001, the taxpayer shall do
32 both of the following:

33 (1) Obtain from the Employment Development Department, as
34 permitted by federal law, the local county or city Job Training
35 Partnership Act administrative entity, the local county GAIN office
36 or social services agency, or the local government administering
37 the LAMBRA, a certification that provides that a qualified
38 disadvantaged individual or qualified displaced employee meets
39 the eligibility requirements specified in subparagraph (C) of
40 paragraph (4) of subdivision (b) or subparagraph (A) of paragraph

(6) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates pursuant to Section 7114.2 of the Government Code and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section, both of the following apply:

(A) All employees of trades or businesses that are under common control shall be treated as employed by a single employer.

(B) The credit (if any) allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit.

The regulations prescribed under this paragraph shall be based on principles similar to the principles that apply in the case of controlled groups of corporations specified in subdivision (d) of Section 23622.7.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year ending after that acquisition, the employment relationship between an employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount (determined under those regulations) equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into

1 account under subdivision (a) is not continued by the qualified
2 taxpayer for a period of 270 days of employment during the
3 60-month period beginning with the day the qualified
4 disadvantaged individual commences seasonal employment with
5 the qualified taxpayer, the tax imposed by this part, for the taxable
6 year that includes the 60th month following the month in which
7 the qualified disadvantaged individual commences seasonal
8 employment with the qualified taxpayer, shall be increased by an
9 amount equal to the credit allowed under subdivision (a) for that
10 taxable year and all prior taxable years attributable to qualified
11 wages paid or incurred with respect to that qualified disadvantaged
12 individual.

13 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
14 any of the following:

15 (i) A termination of employment of an employee who voluntarily
16 leaves the employment of the taxpayer.

17 (ii) A termination of employment of an individual who, before
18 the close of the period referred to in subparagraph (A) of paragraph
19 (1), becomes disabled to perform the services of that employment,
20 unless that disability is removed before the close of that period
21 and the taxpayer fails to offer reemployment to that individual.

22 (iii) A termination of employment of an individual, if it is
23 determined that the termination was due to the misconduct (as
24 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
25 the California Code of Regulations) of that individual.

26 (iv) A termination of employment of an individual due to a
27 substantial reduction in the trade or business operations of the
28 taxpayer.

29 (v) A termination of employment of an individual, if that
30 individual is replaced by other qualified employees so as to create
31 a net increase in both the number of employees and the hours of
32 employment.

33 (B) Subparagraph (B) of paragraph (1) shall not apply to any
34 of the following:

35 (i) A failure to continue the seasonal employment of a qualified
36 disadvantaged individual who voluntarily fails to return to the
37 seasonal employment of the qualified taxpayer.

38 (ii) A failure to continue the seasonal employment of a qualified
39 disadvantaged individual who, before the close of the period
40 referred to in subparagraph (B) of paragraph (1), becomes disabled

1 and unable to perform the services of that seasonal employment,
2 unless that disability is removed before the close of that period
3 and the qualified taxpayer fails to offer seasonal employment to
4 that individual.

5 (iii) A failure to continue the seasonal employment of a qualified
6 disadvantaged individual, if it is determined that the failure to
7 continue the seasonal employment was due to the misconduct (as
8 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
9 the California Code of Regulations) of that qualified disadvantaged
10 individual.

11 (iv) A failure to continue seasonal employment of a qualified
12 disadvantaged individual due to a substantial reduction in the
13 regular seasonal trade or business operations of the qualified
14 taxpayer.

15 (v) A failure to continue the seasonal employment of a qualified
16 disadvantaged individual, if that individual is replaced by other
17 qualified displaced employees so as to create a net increase in both
18 the number of seasonal employees and the hours of seasonal
19 employment.

20 (C) For purposes of paragraph (1), the employment relationship
21 between the taxpayer and an employee shall not be treated as
22 terminated by reason of a mere change in the form of conducting
23 the trade or business of the taxpayer, if the employee continues to
24 be employed in that trade or business and the taxpayer retains a
25 substantial interest in that trade or business.

26 (3) Any increase in tax under paragraph (1) shall not be treated
27 as tax imposed by this part for purposes of determining the amount
28 of any credit allowable under this part.

29 (4) At the close of the second taxable year, if the taxpayer has
30 not increased the number of its employees as determined by
31 paragraph (5) of subdivision (b), then the amount of the credit
32 previously claimed shall be added to the taxpayer's net tax for the
33 taxpayer's second taxable year.

34 (f) In the case of an estate or trust, both of the following apply:

35 (1) The qualified wages for any taxable year shall be apportioned
36 between the estate or trust and the beneficiaries on the basis of the
37 income of the estate or trust allocable to each.

38 (2) Any beneficiary to whom any qualified wages have been
39 apportioned under paragraph (1) shall be treated (for purposes of
40 this part) as the employer with respect to those wages.

1 (g) The credit shall be reduced by the credit allowed under
2 Section 17053.7. The credit shall also be reduced by the federal
3 credit allowed under Section 51 of the Internal Revenue Code.

4 In addition, any deduction otherwise allowed under this part for
5 the wages or salaries paid or incurred by the taxpayer upon which
6 the credit is based shall be reduced by the amount of the credit,
7 prior to any reduction required by subdivision (h) or (i).

8 (h) In the case where the credit otherwise allowed under this
9 section exceeds the “net tax” for the taxable year, that portion of
10 the credit that exceeds the “net tax” may be carried over and added
11 to the credit, if any, in succeeding years, until the credit is
12 exhausted. The credit shall be applied first to the earliest taxable
13 years possible.

14 (i) (1) The amount of credit otherwise allowed under this section
15 and Section 17053.45, including prior year credit carryovers, that
16 may reduce the “net tax” for the taxable year shall not exceed the
17 amount of tax that would be imposed on the taxpayer’s business
18 income attributed to a LAMBRA determined as if that attributed
19 income represented all of the net income of the taxpayer subject
20 to tax under this part.

21 (2) Attributable income shall be that portion of the taxpayer’s
22 California source business income that is apportioned to the
23 LAMBRA. For that purpose, the taxpayer’s business income that
24 is attributable to sources in this state first shall be determined in
25 accordance with Chapter 17 (commencing with Section 25101) of
26 Part 11. That business income shall be further apportioned to the
27 LAMBRA in accordance with Article 2 (commencing with Section
28 25120) of Chapter 17 of Part 11, modified for purposes of this
29 section in accordance with paragraph (3).

30 (3) Income shall be apportioned to a LAMBRA by multiplying
31 the total California business income of the taxpayer by a fraction,
32 the numerator of which is the property factor plus the payroll factor,
33 and the denominator of which is two. For purposes of this
34 paragraph:

35 (A) The property factor is a fraction, the numerator of which is
36 the average value of the taxpayer’s real and tangible personal
37 property owned or rented and used in the LAMBRA during the
38 taxable year, and the denominator of which is the average value
39 of all the taxpayer’s real and tangible personal property owned or
40 rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the LAMBRA during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “net tax” for the taxable year, as provided in subdivision (h).

(j) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

(k) (1) This section shall cease to be operative for taxable years beginning on or after January 1, 2011.

(2) In the case of any portion of a credit available for carryover to a taxable year beginning on or after January 1, 2011, under subdivision (h), as that subdivision read prior to the amendments made by the act adding this subdivision, neither that subdivision nor subdivision (d) of Section 17039 shall apply, and those unused credit amounts shall not be carried over to any taxable year beginning on or after January 1, 2011.

(l) This section shall be repealed as of December 1, 2011.

SEC. 93. Section 17053.47 of the Revenue and Taxation Code is amended to read:

17053.47. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the “net tax” (as defined in Section 17039) to a qualified taxpayer for hiring a qualified disadvantaged individual during the taxable year for employment in the manufacturing enhancement area. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

1 (5) Ten percent of the qualified wages in the fifth year of
2 employment.

3 (b) For purposes of this section:

4 (1) “Qualified wages” means:

5 (A) That portion of wages paid or incurred by the qualified
6 taxpayer during the taxable year to qualified disadvantaged
7 individuals that does not exceed 150 percent of the minimum wage.

8 (B) The total amount of qualified wages which may be taken
9 into account for purposes of claiming the credit allowed under this
10 section shall not exceed two million dollars (\$2,000,000) per
11 taxable year.

12 (C) Wages received during the 60-month period beginning with
13 the first day the qualified disadvantaged individual commences
14 employment with the qualified taxpayer. Reemployment in
15 connection with any increase, including a regularly occurring
16 seasonal increase, in the trade or business operations of the taxpayer
17 does not constitute commencement of employment for purposes
18 of this section.

19 (D) Qualified wages do not include any wages paid or incurred
20 by the qualified taxpayer on or after the manufacturing
21 enhancement area expiration date. However, wages paid or incurred
22 with respect to qualified employees who are employed by the
23 qualified taxpayer within the manufacturing enhancement area
24 within the 60-month period prior to the manufacturing enhancement
25 area expiration date shall continue to qualify for the credit under
26 this section after the manufacturing enhancement area expiration
27 date, in accordance with all provisions of this section applied as
28 if the manufacturing enhancement area designation were still in
29 existence and binding.

30 (2) “Minimum wage” means the wage established by the
31 Industrial Welfare Commission as provided for in Chapter 1
32 (commencing with Section 1171) of Part 4 of Division 2 of the
33 Labor Code.

34 (3) “Manufacturing enhancement area” means an area designated
35 pursuant to Section 7073.8 of the Government Code according to
36 the procedures of Chapter 12.8 (commencing with Section 7070)
37 of Division 7 of Title 1 of the Government Code.

38 (4) “Manufacturing enhancement area expiration date” means
39 the date the manufacturing enhancement area designation expires,
40 is no longer binding, or becomes inoperative.

1 (5) “Qualified disadvantaged individual” means an individual
2 who satisfies all of the following requirements:

3 (A) (i) At least 90 percent of whose services for the qualified
4 taxpayer during the taxable year are directly related to the conduct
5 of the qualified taxpayer’s trade or business located in a
6 manufacturing enhancement area.

7 (ii) Who performs at least 50 percent of his or her services for
8 the qualified taxpayer during the taxable year in the manufacturing
9 enhancement area.

10 (B) Who is hired by the qualified taxpayer after the designation
11 of the area as a manufacturing enhancement area in which the
12 individual’s services were primarily performed.

13 (C) Who is any of the following immediately preceding the
14 individual’s commencement of employment with the qualified
15 taxpayer:

16 (i) An individual who has been determined eligible for services
17 under the federal Job Training Partnership Act (29 U.S.C. Sec.
18 1501 et seq.), or its successor.

19 (ii) Any voluntary or mandatory registrant under the Greater
20 Avenues for Independence Act of 1985, or its successor, as
21 provided pursuant to Article 3.2 (commencing with Section 11320)
22 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
23 Code.

24 (iii) Any individual who has been certified eligible by the
25 Employment Development Department under the federal Targeted
26 Jobs Tax Credit Program, or its successor, whether or not this
27 program is in effect.

28 (6) “Qualified taxpayer” means any taxpayer engaged in a trade
29 or business within a manufacturing enhancement area designated
30 pursuant to Section 7073.8 of the Government Code and who meets
31 all of the following requirements:

32 (A) Is engaged in those lines of business described in Codes
33 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
34 inclusive, of the Standard Industrial Classification (SIC) Manual
35 published by the United States Office of Management and Budget,
36 1987 edition.

37 (B) At least 50 percent of the qualified taxpayer’s workforce
38 hired after the designation of the manufacturing enhancement area
39 is composed of individuals who, at the time of hire, are residents

1 of the county in which the manufacturing enhancement area is
2 located.

3 (C) Of this percentage of local hires, at least 30 percent shall
4 be qualified disadvantaged individuals.

5 (7) “Seasonal employment” means employment by a qualified
6 taxpayer that has regular and predictable substantial reductions in
7 trade or business operations.

8 (c) (1) For purposes of this section, all of the following apply:

9 (A) All employees of trades or businesses that are under
10 common control shall be treated as employed by a single qualified
11 taxpayer.

12 (B) The credit (if any) allowable by this section with respect to
13 each trade or business shall be determined by reference to its
14 proportionate share of the expense of the qualified wages giving
15 rise to the credit and shall be allocated in that manner.

16 (C) Principles that apply in the case of controlled groups of
17 corporations, as specified in subdivision (d) of Section 23622.7,
18 shall apply with respect to determining employment.

19 (2) If a qualified taxpayer acquires the major portion of a trade
20 or business of another employer (hereinafter in this paragraph
21 referred to as the “predecessor”) or the major portion of a separate
22 unit of a trade or business of a predecessor, then, for purposes of
23 applying this section (other than subdivision (d)) for any calendar
24 year ending after that acquisition, the employment relationship
25 between a qualified disadvantaged individual and a qualified
26 taxpayer shall not be treated as terminated if the qualified
27 disadvantaged individual continues to be employed in that trade
28 or business.

29 (d) (1) (A) If the employment, other than seasonal employment,
30 of any qualified disadvantaged individual, with respect to whom
31 qualified wages are taken into account under subdivision (b) is
32 terminated by the qualified taxpayer at any time during the first
33 270 days of that employment (whether or not consecutive) or before
34 the close of the 270th calendar day after the day in which that
35 qualified disadvantaged individual completes 90 days of
36 employment with the qualified taxpayer, the tax imposed by this
37 part for the taxable year in which that employment is terminated
38 shall be increased by an amount equal to the credit allowed under
39 subdivision (a) for that taxable year and all prior taxable years

1 attributable to qualified wages paid or incurred with respect to that
2 qualified disadvantaged individual.

3 (B) If the seasonal employment of any qualified disadvantaged
4 individual, with respect to whom qualified wages are taken into
5 account under subdivision (a) is not continued by the qualified
6 taxpayer for a period of 270 days of employment during the
7 60-month period beginning with the day the qualified
8 disadvantaged individual commences seasonal employment with
9 the qualified taxpayer, the tax imposed by this part, for the taxable
10 year that includes the 60th month following the month in which
11 the qualified disadvantaged individual commences seasonal
12 employment with the qualified taxpayer, shall be increased by an
13 amount equal to the credit allowed under subdivision (a) for that
14 taxable year and all prior taxable years attributable to qualified
15 wages paid or incurred with respect to that qualified disadvantaged
16 individual.

17 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
18 any of the following:

19 (i) A termination of employment of a qualified disadvantaged
20 individual who voluntarily leaves the employment of the qualified
21 taxpayer.

22 (ii) A termination of employment of a qualified disadvantaged
23 individual who, before the close of the period referred to in
24 subparagraph (A) of paragraph (1), becomes disabled to perform
25 the services of that employment, unless that disability is removed
26 before the close of that period and the taxpayer fails to offer
27 reemployment to that individual.

28 (iii) A termination of employment of a qualified disadvantaged
29 individual, if it is determined that the termination was due to the
30 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,
31 of Title 22 of the California Code of Regulations) of that individual.

32 (iv) A termination of employment of a qualified disadvantaged
33 individual due to a substantial reduction in the trade or business
34 operations of the qualified taxpayer.

35 (v) A termination of employment of a qualified disadvantaged
36 individual, if that individual is replaced by other qualified
37 disadvantaged individuals so as to create a net increase in both the
38 number of employees and the hours of employment.

39 (B) Subparagraph (B) of paragraph (1) shall not apply to any
40 of the following:

1 (i) A failure to continue the seasonal employment of a qualified
2 disadvantaged individual who voluntarily fails to return to the
3 seasonal employment of the qualified taxpayer.

4 (ii) A failure to continue the seasonal employment of a qualified
5 disadvantaged individual who, before the close of the period
6 referred to in subparagraph (B) of paragraph (1), becomes disabled
7 and unable to perform the services of that seasonal employment,
8 unless that disability is removed before the close of that period
9 and the qualified taxpayer fails to offer seasonal employment to
10 that qualified disadvantaged individual.

11 (iii) A failure to continue the seasonal employment of a qualified
12 disadvantaged individual, if it is determined that the failure to
13 continue the seasonal employment was due to the misconduct (as
14 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
15 the California Code of Regulations) of that qualified disadvantaged
16 individual.

17 (iv) A failure to continue seasonal employment of a qualified
18 disadvantaged individual due to a substantial reduction in the
19 regular seasonal trade or business operations of the qualified
20 taxpayer.

21 (v) A failure to continue the seasonal employment of a qualified
22 disadvantaged individual, if that qualified disadvantaged individual
23 is replaced by other qualified disadvantaged individuals so as to
24 create a net increase in both the number of seasonal employees
25 and the hours of seasonal employment.

26 (C) For purposes of paragraph (1), the employment relationship
27 between the qualified taxpayer and a qualified disadvantaged
28 individual shall not be treated as terminated by reason of a mere
29 change in the form of conducting the trade or business of the
30 qualified taxpayer, if the qualified disadvantaged individual
31 continues to be employed in that trade or business and the qualified
32 taxpayer retains a substantial interest in that trade or business.

33 (3) Any increase in tax under paragraph (1) shall not be treated
34 as tax imposed by this part for purposes of determining the amount
35 of any credit allowable under this part.

36 (e) In the case of an estate or trust, both of the following apply:

37 (1) The qualified wages for any taxable year shall be apportioned
38 between the estate or trust and the beneficiaries on the basis of the
39 income of the estate or trust allocable to each.

1 (2) Any beneficiary to whom any qualified wages have been
2 apportioned under paragraph (1) shall be treated (for purposes of
3 this part) as the employer with respect to those wages.

4 (f) The credit shall be reduced by the credit allowed under
5 Section 17053.7. The credit shall also be reduced by the federal
6 credit allowed under Section 51 of the Internal Revenue Code.

7 In addition, any deduction otherwise allowed under this part for
8 the wages or salaries paid or incurred by the qualified taxpayer
9 upon which the credit is based shall be reduced by the amount of
10 the credit, prior to any reduction required by subdivision (g) or
11 (h).

12 (g) In the case where the credit otherwise allowed under this
13 section exceeds the “net tax” for the taxable year, that portion of
14 the credit that exceeds the “net tax” may be carried over and added
15 to the credit, if any, in succeeding years, until the credit is
16 exhausted. The credit shall be applied first to the earliest taxable
17 years possible.

18 (h) (1) The amount of credit otherwise allowed under this
19 section, including prior year credit carryovers, that may reduce
20 the “net tax” for the taxable year shall not exceed the amount of
21 tax that would be imposed on the qualified taxpayer’s business
22 income attributed to a manufacturing enhancement area determined
23 as if that attributed income represented all of the net income of the
24 qualified taxpayer subject to tax under this part.

25 (2) Attributable income shall be that portion of the taxpayer’s
26 California source business income that is apportioned to the
27 manufacturing enhancement area. For that purpose, the taxpayer’s
28 business income that is attributable to sources in this state first
29 shall be determined in accordance with Chapter 17 (commencing
30 with Section 25101) of Part 11. That business income shall be
31 further apportioned to the manufacturing enhancement area in
32 accordance with Article 2 (commencing with Section 25120) of
33 Chapter 17 of Part 11, modified for purposes of this section in
34 accordance with paragraph (3).

35 (3) Income shall be apportioned to a manufacturing enhancement
36 area by multiplying the total California business income of the
37 taxpayer by a fraction, the numerator of which is the property
38 factor plus the payroll factor, and the denominator of which is two.
39 For purposes of this paragraph:

1 (A) The property factor is a fraction, the numerator of which is
2 the average value of the taxpayer's real and tangible personal
3 property owned or rented and used in the manufacturing
4 enhancement area during the taxable year, and the denominator
5 of which is the average value of all the taxpayer's real and tangible
6 personal property owned or rented and used in this state during
7 the taxable year.

8 (B) The payroll factor is a fraction, the numerator of which is
9 the total amount paid by the taxpayer in the manufacturing
10 enhancement area during the taxable year for compensation, and
11 the denominator of which is the total compensation paid by the
12 taxpayer in this state during the taxable year.

13 (4) The portion of any credit remaining, if any, after application
14 of this subdivision, shall be carried over to succeeding taxable
15 years, as if it were an amount exceeding the "net tax" for the
16 taxable year, as provided in subdivision (g).

17 (i) If the taxpayer is allowed a credit pursuant to this section for
18 qualified wages paid or incurred, only one credit shall be allowed
19 to the taxpayer under this part with respect to any wage consisting
20 in whole or in part of those qualified wages.

21 (j) The qualified taxpayer shall do both of the following:

22 (1) Obtain from the Employment Development Department, as
23 permitted by federal law, the local county or city Job Training
24 Partnership Act administrative entity, the local county GAIN office
25 or social services agency, or the local government administering
26 the manufacturing enhancement area, a certification that provides
27 that a qualified disadvantaged individual meets the eligibility
28 requirements specified in paragraph (5) of subdivision (b). The
29 Employment Development Department may provide preliminary
30 screening and referral to a certifying agency. The Department of
31 Housing and Community Development shall develop regulations
32 governing the issuance of certificates pursuant to subdivision (d)
33 of Section 7086 of the Government Code and shall develop forms
34 for this purpose.

35 (2) Retain a copy of the certification and provide it upon request
36 to the Franchise Tax Board.

37 (k) (1) This section shall cease to be operative for taxable years
38 beginning on or after January 1, 2011.

39 (2) In the case of any portion of a credit available for carryover
40 to a taxable year beginning on or after January 1, 2011, under

subdivision (g), as that subdivision read prior to the amendments made by the act adding this subdivision, neither that subdivision nor subdivision (d) of Section 17039 shall apply, and those unused credit amounts shall not be carried over to any taxable year beginning on or after January 1, 2011.

(l) This section shall be repealed as of December 1, 2011.

SEC. 94. Section 17053.70 of the Revenue and Taxation Code is amended to read:

17053.70. (a) There shall be allowed as a credit against the “net tax” (as defined in Section 17039) for the taxable year an amount equal to the sales or use tax paid or incurred during the taxable year by the taxpayer in connection with the taxpayer’s purchase of qualified property.

(b) For purposes of this section:

(1) “Taxpayer” means a person or entity engaged in a trade or business within an enterprise zone.

(2) “Qualified property” means:

(A) Any of the following:

(i) Machinery and machinery parts used for fabricating, processing, assembling, and manufacturing.

(ii) Machinery and machinery parts used for the production of renewable energy resources.

(iii) Machinery and machinery parts used for either of the following:

(I) Air pollution control mechanisms.

(II) Water pollution control mechanisms.

(iv) Data processing and communications equipment, including, but not limited, to computers, computer-automated drafting systems, copy machines, telephone systems, and faxes.

(v) Motion picture manufacturing equipment central to production and postproduction, including, but not limited to, cameras, audio recorders, and digital image and sound processing equipment.

(B) The total cost of qualified property purchased and placed in service in any taxable year that may be taken into account by any taxpayer for purposes of claiming this credit shall not exceed one million dollars (\$1,000,000).

(C) The qualified property is used by the taxpayer exclusively in an enterprise zone.

1 (D) The qualified property is purchased and placed in service
2 before the date the enterprise zone designation expires, is no longer
3 binding, or becomes inoperative.

4 (3) "Enterprise zone" means the area designated as an enterprise
5 zone pursuant to Chapter 12.8 (commencing with Section 7070)
6 of Division 7 of Title 1 of the Government Code.

7 (c) If the taxpayer has purchased property upon which a use tax
8 has been paid or incurred, the credit provided by this section shall
9 be allowed only if qualified property of a comparable quality and
10 price is not timely available for purchase in this state.

11 (d) In the case where the credit otherwise allowed under this
12 section exceeds the "net tax" for the taxable year, that portion of
13 the credit that exceeds the "net tax" may be carried over and added
14 to the credit, if any, in succeeding taxable years, until the credit is
15 exhausted. The credit shall be applied first to the earliest taxable
16 years possible.

17 (e) Any taxpayer who elects to be subject to this section shall
18 not be entitled to increase the basis of the qualified property as
19 otherwise required by Section 164(a) of the Internal Revenue Code
20 with respect to sales or use tax paid or incurred in connection with
21 the taxpayer's purchase of qualified property.

22 (f) (1) The amount of the credit otherwise allowed under this
23 section and Section 17053.74, including any credit carryover from
24 prior years, that may reduce the "net tax" for the taxable year shall
25 not exceed the amount of tax that would be imposed on the
26 taxpayer's business income attributable to the enterprise zone
27 determined as if that attributable income represented all of the
28 income of the taxpayer subject to tax under this part.

29 (2) Attributable income shall be that portion of the taxpayer's
30 California source business income that is apportioned to the
31 enterprise zone. For that purpose, the taxpayer's business income
32 attributable to sources in this state first shall be determined in
33 accordance with Chapter 17 (commencing with Section 25101) of
34 Part 11. That business income shall be further apportioned to the
35 enterprise zone in accordance with Article 2 (commencing with
36 Section 25120) of Chapter 17 of Part 11, modified for purposes
37 of this section in accordance with paragraph (3).

38 (3) Business income shall be apportioned to the enterprise zone
39 by multiplying the total California business income of the taxpayer
40 by a fraction, the numerator of which is the property factor plus

1 the payroll factor, and the denominator of which is two. For
2 purposes of this paragraph:

3 (A) The property factor is a fraction, the numerator of which is
4 the average value of the taxpayer's real and tangible personal
5 property owned or rented and used in the enterprise zone during
6 the taxable year, and the denominator of which is the average value
7 of all the taxpayer's real and tangible personal property owned or
8 rented and used in this state during the taxable year.

9 (B) The payroll factor is a fraction, the numerator of which is
10 the total amount paid by the taxpayer in the enterprise zone during
11 the taxable year for compensation, and the denominator of which
12 is the total compensation paid by the taxpayer in this state during
13 the taxable year.

14 (4) The portion of any credit remaining, if any, after application
15 of this subdivision, shall be carried over to succeeding taxable
16 years, as if it were an amount exceeding the "net tax" for the
17 taxable year, as provided in subdivision (d).

18 (g) The amendments made to this section by the act adding this
19 subdivision shall apply to taxable years beginning on or after
20 January 1, 1998.

21 (h) (1) This section shall cease to be operative for taxable years
22 beginning on or after January 1, 2011.

23 (2) In the case of any portion of a credit available for carryover
24 to a taxable year beginning on or after January 1, 2011, under
25 subdivision (d), as that subdivision read prior to the amendments
26 made by the act adding this subdivision, neither that subdivision
27 nor subdivision (d) of Section 17039 shall apply, and those unused
28 credit amounts shall not be carried over to any taxable year
29 beginning on or after January 1, 2011.

30 (i) This section shall be repealed as of December 1, 2011.

31 SEC. 95. Section 17053.74 of the Revenue and Taxation Code
32 is amended to read:

33 17053.74. (a) There shall be allowed a credit against the "net
34 tax" (as defined in Section 17039) to a taxpayer who employs a
35 qualified employee in an enterprise zone during the taxable year.
36 The credit shall be equal to the sum of each of the following:

37 (1) Fifty percent of qualified wages in the first year of
38 employment.

39 (2) Forty percent of qualified wages in the second year of
40 employment.

1 (3) Thirty percent of qualified wages in the third year of
2 employment.

3 (4) Twenty percent of qualified wages in the fourth year of
4 employment.

5 (5) Ten percent of qualified wages in the fifth year of
6 employment.

7 (b) For purposes of this section:

8 (1) “Qualified wages” means:

9 (A) (i) Except as provided in clause (ii), that portion of wages
10 paid or incurred by the taxpayer during the taxable year to qualified
11 employees that does not exceed 150 percent of the minimum wage.

12 (ii) For up to 1,350 qualified employees who are employed by
13 the taxpayer in the Long Beach Enterprise Zone in aircraft
14 manufacturing activities described in Codes 3721 to 3728,
15 inclusive, and Code 3812 of the Standard Industrial Classification
16 (SIC) Manual published by the United States Office of
17 Management and Budget, 1987 edition, “qualified wages” means
18 that portion of hourly wages that does not exceed 202 percent of
19 the minimum wage.

20 (B) Wages received during the 60-month period beginning with
21 the first day the employee commences employment with the
22 taxpayer. Reemployment in connection with any increase, including
23 a regularly occurring seasonal increase, in the trade or business
24 operations of the taxpayer does not constitute commencement of
25 employment for purposes of this section.

26 (C) Qualified wages do not include any wages paid or incurred
27 by the taxpayer on or after the zone expiration date. However,
28 wages paid or incurred with respect to qualified employees who
29 are employed by the taxpayer within the enterprise zone within
30 the 60-month period prior to the zone expiration date shall continue
31 to qualify for the credit under this section after the zone expiration
32 date, in accordance with all provisions of this section applied as
33 if the enterprise zone designation were still in existence and
34 binding.

35 (2) “Minimum wage” means the wage established by the
36 Industrial Welfare Commission as provided for in Chapter 1
37 (commencing with Section 1171) of Part 4 of Division 2 of the
38 Labor Code.

39 (3) “Zone expiration date” means the date the enterprise zone
40 designation expires, is no longer binding, or becomes inoperative.

1 (4) (A) “Qualified employee” means an individual who meets
2 all of the following requirements:

3 (i) At least 90 percent of whose services for the taxpayer during
4 the taxable year are directly related to the conduct of the taxpayer’s
5 trade or business located in an enterprise zone.

6 (ii) Performs at least 50 percent of his or her services for the
7 taxpayer during the taxable year in an enterprise zone.

8 (iii) Is hired by the taxpayer after the date of original designation
9 of the area in which services were performed as an enterprise zone.

10 (iv) Is any of the following:

11 (I) Immediately preceding the qualified employee’s
12 commencement of employment with the taxpayer, was a person
13 eligible for services under the federal Job Training Partnership
14 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
15 or is eligible to receive, subsidized employment, training, or
16 services funded by the federal Job Training Partnership Act, or its
17 successor.

18 (II) Immediately preceding the qualified employee’s
19 commencement of employment with the taxpayer, was a person
20 eligible to be a voluntary or mandatory registrant under the Greater
21 Avenues for Independence Act of 1985 (GAIN) provided for
22 pursuant to Article 3.2 (commencing with Section 11320) of
23 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
24 Code, or its successor.

25 (III) Immediately preceding the qualified employee’s
26 commencement of employment with the taxpayer, was an
27 economically disadvantaged individual 14 years of age or older.

28 (IV) Immediately preceding the qualified employee’s
29 commencement of employment with the taxpayer, was a dislocated
30 worker who meets any of the following:

31 (aa) Has been terminated or laid off or who has received a notice
32 of termination or layoff from employment, is eligible for or has
33 exhausted entitlement to unemployment insurance benefits, and
34 is unlikely to return to his or her previous industry or occupation.

35 (bb) Has been terminated or has received a notice of termination
36 of employment as a result of any permanent closure or any
37 substantial layoff at a plant, facility, or enterprise, including an
38 individual who has not received written notification but whose
39 employer has made a public announcement of the closure or layoff.

1 (cc) Is long-term unemployed and has limited opportunities for
2 employment or reemployment in the same or a similar occupation
3 in the area in which the individual resides, including an individual
4 55 years of age or older who may have substantial barriers to
5 employment by reason of age.

6 (dd) Was self-employed (including farmers and ranchers) and
7 is unemployed as a result of general economic conditions in the
8 community in which he or she resides or because of natural
9 disasters.

10 (ee) Was a civilian employee of the Department of Defense
11 employed at a military installation being closed or realigned under
12 the Defense Base Closure and Realignment Act of 1990.

13 (ff) Was an active member of the armed forces or National
14 Guard as of September 30, 1990, and was either involuntarily
15 separated or separated pursuant to a special benefits program.

16 (gg) Is a seasonal or migrant worker who experiences chronic
17 seasonal unemployment and underemployment in the agriculture
18 industry, aggravated by continual advancements in technology and
19 mechanization.

20 (hh) Has been terminated or laid off, or has received a notice
21 of termination or layoff, as a consequence of compliance with the
22 Clean Air Act.

23 (V) Immediately preceding the qualified employee's
24 commencement of employment with the taxpayer, was a disabled
25 individual who is eligible for or enrolled in, or has completed a
26 state rehabilitation plan or is a service-connected disabled veteran,
27 veteran of the Vietnam era, or veteran who is recently separated
28 from military service.

29 (VI) Immediately preceding the qualified employee's
30 commencement of employment with the taxpayer, was an
31 ex-offender. An individual shall be treated as convicted if he or
32 she was placed on probation by a state court without a finding of
33 guilt.

34 (VII) Immediately preceding the qualified employee's
35 commencement of employment with the taxpayer, was a person
36 eligible for or a recipient of any of the following:

37 (aa) Federal Supplemental Security Income benefits.

38 (bb) Aid to Families with Dependent Children.

39 (cc) Food stamps.

40 (dd) State and local general assistance.

1 (VIII) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was a member
3 of a federally recognized Indian tribe, band, or other group of
4 Native American descent.

5 (IX) Immediately preceding the qualified employee's
6 commencement of employment with the taxpayer, was a resident
7 of a targeted employment area, as defined in Section 7072 of the
8 Government Code.

9 (X) An employee who qualified the taxpayer for the enterprise
10 zone hiring credit under former Section 17053.8 or the program
11 area hiring credit under former Section 17053.11.

12 (XI) Immediately preceding the qualified employee's
13 commencement of employment with the taxpayer, was a member
14 of a targeted group, as defined in Section 51(d) of the Internal
15 Revenue Code, or its successor.

16 (B) Priority for employment shall be provided to an individual
17 who is enrolled in a qualified program under the federal Job
18 Training Partnership Act or the Greater Avenues for Independence
19 Act of 1985 or who is eligible as a member of a targeted group
20 under the Work Opportunity Tax Credit (Section 51 of the Internal
21 Revenue Code), or its successor.

22 (5) "Taxpayer" means a person or entity engaged in a trade or
23 business within an enterprise zone designated pursuant to Chapter
24 12.8 (commencing with Section 7070) of the Government Code.

25 (6) "Seasonal employment" means employment by a taxpayer
26 that has regular and predictable substantial reductions in trade or
27 business operations.

28 (c) The taxpayer shall do both of the following:

29 (1) Obtain from the Employment Development Department, as
30 permitted by federal law, the local county or city Job Training
31 Partnership Act administrative entity, the local county GAIN office
32 or social services agency, or the local government administering
33 the enterprise zone, a certification which provides that a qualified
34 employee meets the eligibility requirements specified in clause
35 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
36 Employment Development Department may provide preliminary
37 screening and referral to a certifying agency. The Employment
38 Development Department shall develop a form for this purpose.
39 The Department of Housing and Community Development shall
40 develop regulations governing the issuance of certificates by local

1 governments pursuant to subdivision (a) of Section 7086 of the
2 Government Code.

3 (2) Retain a copy of the certification and provide it upon request
4 to the Franchise Tax Board.

5 (d) (1) For purposes of this section:

6 (A) All employees of trades or businesses, which are not
7 incorporated, that are under common control shall be treated as
8 employed by a single taxpayer.

9 (B) The credit, if any, allowable by this section with respect to
10 each trade or business shall be determined by reference to its
11 proportionate share of the expense of the qualified wages giving
12 rise to the credit, and shall be allocated in that manner.

13 (C) Principles that apply in the case of controlled groups of
14 corporations, as specified in subdivision (d) of Section 23622.7,
15 shall apply with respect to determining employment.

16 (2) If an employer acquires the major portion of a trade or
17 business of another employer (hereinafter in this paragraph referred
18 to as the “predecessor”) or the major portion of a separate unit of
19 a trade or business of a predecessor, then, for purposes of applying
20 this section (other than subdivision (e)) for any calendar year
21 ending after that acquisition, the employment relationship between
22 a qualified employee and an employer shall not be treated as
23 terminated if the employee continues to be employed in that trade
24 or business.

25 (e) (1) (A) If the employment, other than seasonal employment,
26 of any qualified employee, with respect to whom qualified wages
27 are taken into account under subdivision (a) is terminated by the
28 taxpayer at any time during the first 270 days of that employment
29 (whether or not consecutive) or before the close of the 270th
30 calendar day after the day in which that employee completes 90
31 days of employment with the taxpayer, the tax imposed by this
32 part for the taxable year in which that employment is terminated
33 shall be increased by an amount equal to the credit allowed under
34 subdivision (a) for that taxable year and all prior taxable years
35 attributable to qualified wages paid or incurred with respect to that
36 employee.

37 (B) If the seasonal employment of any qualified employee, with
38 respect to whom qualified wages are taken into account under
39 subdivision (a) is not continued by the taxpayer for a period of
40 270 days of employment during the 60-month period beginning

1 with the day the qualified employee commences seasonal
2 employment with the taxpayer, the tax imposed by this part, for
3 the taxable year that includes the 60th month following the month
4 in which the qualified employee commences seasonal employment
5 with the taxpayer, shall be increased by an amount equal to the
6 credit allowed under subdivision (a) for that taxable year and all
7 prior taxable years attributable to qualified wages paid or incurred
8 with respect to that qualified employee.

9 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
10 any of the following:

11 (i) A termination of employment of a qualified employee who
12 voluntarily leaves the employment of the taxpayer.

13 (ii) A termination of employment of a qualified employee who,
14 before the close of the period referred to in paragraph (1), becomes
15 disabled and unable to perform the services of that employment,
16 unless that disability is removed before the close of that period
17 and the taxpayer fails to offer reemployment to that employee.

18 (iii) A termination of employment of a qualified employee, if
19 it is determined that the termination was due to the misconduct (as
20 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
21 the California Code of Regulations) of that employee.

22 (iv) A termination of employment of a qualified employee due
23 to a substantial reduction in the trade or business operations of the
24 taxpayer.

25 (v) A termination of employment of a qualified employee, if
26 that employee is replaced by other qualified employees so as to
27 create a net increase in both the number of employees and the
28 hours of employment.

29 (B) Subparagraph (B) of paragraph (1) shall not apply to any
30 of the following:

31 (i) A failure to continue the seasonal employment of a qualified
32 employee who voluntarily fails to return to the seasonal
33 employment of the taxpayer.

34 (ii) A failure to continue the seasonal employment of a qualified
35 employee who, before the close of the period referred to in
36 subparagraph (B) of paragraph (1), becomes disabled and unable
37 to perform the services of that seasonal employment, unless that
38 disability is removed before the close of that period and the
39 taxpayer fails to offer seasonal employment to that qualified
40 employee.

1 (iii) A failure to continue the seasonal employment of a qualified
2 employee, if it is determined that the failure to continue the
3 seasonal employment was due to the misconduct (as defined in
4 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
5 Code of Regulations) of that qualified employee.

6 (iv) A failure to continue seasonal employment of a qualified
7 employee due to a substantial reduction in the regular seasonal
8 trade or business operations of the taxpayer.

9 (v) A failure to continue the seasonal employment of a qualified
10 employee, if that qualified employee is replaced by other qualified
11 employees so as to create a net increase in both the number of
12 seasonal employees and the hours of seasonal employment.

13 (C) For purposes of paragraph (1), the employment relationship
14 between the taxpayer and a qualified employee shall not be treated
15 as terminated by reason of a mere change in the form of conducting
16 the trade or business of the taxpayer, if the qualified employee
17 continues to be employed in that trade or business and the taxpayer
18 retains a substantial interest in that trade or business.

19 (3) Any increase in tax under paragraph (1) shall not be treated
20 as tax imposed by this part for purposes of determining the amount
21 of any credit allowable under this part.

22 (f) In the case of an estate or trust, both of the following apply:

23 (1) The qualified wages for any taxable year shall be apportioned
24 between the estate or trust and the beneficiaries on the basis of the
25 income of the estate or trust allocable to each.

26 (2) Any beneficiary to whom any qualified wages have been
27 apportioned under paragraph (1) shall be treated, for purposes of
28 this part, as the employer with respect to those wages.

29 (g) For purposes of this section, “enterprise zone” means an
30 area designated as an enterprise zone pursuant to Chapter 12.8
31 (commencing with Section 7070) of Division 7 of Title 1 of the
32 Government Code.

33 (h) The credit allowable under this section shall be reduced by
34 the credit allowed under Sections 17053.10, 17053.17 and 17053.46
35 claimed for the same employee. The credit shall also be reduced
36 by the federal credit allowed under Section 51 of the Internal
37 Revenue Code.

38 In addition, any deduction otherwise allowed under this part for
39 the wages or salaries paid or incurred by the taxpayer upon which

1 the credit is based shall be reduced by the amount of the credit,
2 prior to any reduction required by subdivision (i) or (j).

3 (i) In the case where the credit otherwise allowed under this
4 section exceeds the “net tax” for the taxable year, that portion of
5 the credit that exceeds the “net tax” may be carried over and added
6 to the credit, if any, in succeeding taxable years, until the credit is
7 exhausted. The credit shall be applied first to the earliest taxable
8 years possible.

9 (j) (1) The amount of the credit otherwise allowed under this
10 section and Section 17053.70, including any credit carryover from
11 prior years, that may reduce the “net tax” for the taxable year shall
12 not exceed the amount of tax which would be imposed on the
13 taxpayer’s business income attributable to the enterprise zone
14 determined as if that attributable income represented all of the
15 income of the taxpayer subject to tax under this part.

16 (2) Attributable income shall be that portion of the taxpayer’s
17 California source business income that is apportioned to the
18 enterprise zone. For that purpose, the taxpayer’s business income
19 attributable to sources in this state first shall be determined in
20 accordance with Chapter 17 (commencing with Section 25101) of
21 Part 11. That business income shall be further apportioned to the
22 enterprise zone in accordance with Article 2 (commencing with
23 Section 25120) of Chapter 17 of Part 11, modified for purposes
24 of this section in accordance with paragraph (3).

25 (3) Business income shall be apportioned to the enterprise zone
26 by multiplying the total California business income of the taxpayer
27 by a fraction, the numerator of which is the property factor plus
28 the payroll factor, and the denominator of which is two. For
29 purposes of this paragraph:

30 (A) The property factor is a fraction, the numerator of which is
31 the average value of the taxpayer’s real and tangible personal
32 property owned or rented and used in the enterprise zone during
33 the taxable year, and the denominator of which is the average value
34 of all the taxpayer’s real and tangible personal property owned or
35 rented and used in this state during the taxable year.

36 (B) The payroll factor is a fraction, the numerator of which is
37 the total amount paid by the taxpayer in the enterprise zone during
38 the taxable year for compensation, and the denominator of which
39 is the total compensation paid by the taxpayer in this state during
40 the taxable year.

1 (4) The portion of any credit remaining, if any, after application
2 of this subdivision, shall be carried over to succeeding taxable
3 years, as if it were an amount exceeding the “net tax” for the
4 taxable year, as provided in subdivision (i).

5 (k) The changes made to this section by the act adding this
6 subdivision shall apply to taxable years beginning on or after
7 January 1, 1997.

8 (l) (1) This section shall cease to be operative for taxable years
9 beginning on or after January 1, 2011.

10 (2) In the case of any portion of a credit available for carryover
11 to a taxable year beginning on or after January 1, 2011, under
12 subdivision (i), as that subdivision read prior to the amendments
13 made by the act adding this subdivision, neither that subdivision
14 nor subdivision (d) of Section 17039 shall apply, and those unused
15 credit amounts shall not be carried over to any taxable year
16 beginning on or after January 1, 2011.

17 (m) This section shall be repealed as of December 1, 2011.

18 SEC. 96. Section 17053.75 of the Revenue and Taxation Code
19 is amended to read:

20 17053.75. (a) There shall be allowed as a credit against the
21 “net tax” (as defined by Section 17039) for the taxable year an
22 amount equal to five percent of the qualified wages received by
23 the taxpayer during the taxable year.

24 (b) For purposes of this section:

25 (1) “Qualified employee” means a taxpayer who meets both of
26 the following:

27 (A) Is described in clauses (i) and (ii) of subparagraph (A) of
28 paragraph (4) of subdivision (b) of Section 17053.74.

29 (B) Is not an employee of the federal government or of this state
30 or of any political subdivision of this state.

31 (2) (A) “Qualified wages” means “wages,” as defined in
32 subsection (b) of Section 3306 of the Internal Revenue Code,
33 attributable to services performed for an employer with respect to
34 whom the taxpayer is a qualified employee in an amount that does
35 not exceed one and one-half times the dollar limitation specified
36 in that subsection.

37 (B) “Qualified wages” does not include any compensation
38 received from the federal government or this state or any political
39 subdivision of this state.

1 (C) “Qualified wages” does not include any wages received on
2 or after the date the enterprise zone designation expires, is no
3 longer binding, or becomes inoperative.

4 (3) “Enterprise zone” means any area designated as an enterprise
5 zone pursuant to Chapter 12.8 (commencing with Section 7070)
6 of Division 7 of Title 1 of the Government Code.

7 (c) For each dollar of income received by the taxpayer in excess
8 of qualified wages, as defined in this section, the credit shall be
9 reduced by nine cents (\$0.09).

10 (d) The amount of the credit allowed by this section in any
11 taxable year shall not exceed the amount of tax that would be
12 imposed on the taxpayer’s income attributable to employment
13 within the enterprise zone as if that income represented all of the
14 income of the taxpayer subject to tax under this part.

15 (e) (1) This section shall cease to be operative for taxable years
16 beginning on or after January 1, 2011.

17 (2) This section shall be repealed as of December 1, 2011.

18 SEC. 97. Section 17235 of the Revenue and Taxation Code is
19 amended to read:

20 17235. (a) There shall be allowed as a deduction the amount
21 of net interest received by the taxpayer in payment on indebtedness
22 of a person or entity engaged in the conduct of a trade or business
23 located in an enterprise zone.

24 (b) No deduction shall be allowed under this section unless at
25 the time the indebtedness is incurred each of the following
26 requirements are met:

27 (1) The trade or business is located solely within an enterprise
28 zone.

29 (2) The indebtedness is incurred solely in connection with
30 activity within the enterprise zone.

31 (3) The taxpayer has no equity or other ownership interest in
32 the debtor.

33 (c) “Enterprise zone” means an area designated as an enterprise
34 zone pursuant to Chapter 12.8 (commencing with Section 7070)
35 of Division 7 of Title 1 of the Government Code.

36 (d) (1) This section shall cease to be operative for taxable years
37 beginning on or after January 1, 2011.

38 (2) This section shall be repealed as of December 1, 2011.

39 SEC. 98. Section 17267.2 of the Revenue and Taxation Code
40 is amended to read:

1 17267.2. (a) A taxpayer may elect to treat 40 percent of the
2 cost of any Section 17267.2 property as an expense which is not
3 chargeable to a capital account. Any cost so treated shall be allowed
4 as a deduction for the taxable year in which the taxpayer places
5 the Section 17267.2 property in service.

6 (b) In the case of a husband and wife filing separate returns for
7 a taxable year, the applicable amount under subdivision (a) shall
8 be equal to 50 percent of the percentage specified in subdivision
9 (a).

10 (c) (1) An election under this section for any taxable year shall
11 do both of the following:

12 (A) Specify the items of Section 17267.2 property to which the
13 election applies and the percentage of the cost of each of those
14 items that are to be taken into account under subdivision (a).

15 (B) Be made on the taxpayer's original return of the tax imposed
16 by this part for the taxable year.

17 (2) Any election made under this section, and any specification
18 contained in that election, may not be revoked except with the
19 consent of the Franchise Tax Board.

20 (d) (1) For purposes of this section, "Section 17267.2 property"
21 means any recovery property that is:

22 (A) Section 1245 property (as defined in Section 1245(a) (3) of
23 the Internal Revenue Code).

24 (B) Purchased and placed in service by the taxpayer for
25 exclusive use in a trade or business conducted within an enterprise
26 zone designated pursuant to Chapter 12.8 (commencing with
27 Section 7070) of Division 7 of Title 1 of the Government Code.

28 (C) Purchased and placed in service before the date the
29 enterprise zone designation expires, is no longer binding, or
30 becomes inoperative.

31 (2) For purposes of paragraph (1), "purchase" means any
32 acquisition of property, but only if both of the following apply:

33 (A) The property is not acquired from a person whose
34 relationship to the person acquiring it would result in the
35 disallowance of losses under Section 267 or Section 707 (b) of the
36 Internal Revenue Code. However, in applying Section 267(b) and
37 267(c) for purposes of this section, Section 267(c) (4) shall be
38 treated as providing that the family of an individual shall include
39 only the individual's spouse, ancestors, and lineal descendants.

(B) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of that property in the hands of the person from whom it is acquired.

(3) For purposes of this section, the cost of property does not include that portion of the basis of the property that is determined by reference to the basis of other property held at any time by the person acquiring the property.

(4) This section shall not apply to estates and trusts.

(5) This section shall not apply to any property for which the taxpayer may not make an election for the taxable year under Section 179 of the Internal Revenue Code because of the application of the provisions of Section 179(d) of the Internal Revenue Code.

(6) In the case of a partnership, the percentage limitation specified in subdivision (a) shall apply at the partnership level and at the partner level.

(e) For purposes of this section, “taxpayer” means a person or entity who conducts a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(f) Any taxpayer who elects to be subject to this section shall not be entitled to claim for the same property, the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets. However, the taxpayer may claim depreciation by any method permitted by Section 168 of the Internal Revenue Code, commencing with the taxable year following the taxable year in which the Section 17267.2 property is placed in service.

(g) The aggregate cost of all Section 17267.2 property that may be taken into account under subdivision (a) for any taxable year shall not exceed the following applicable amount for the taxable year of the designation of the relevant enterprise zone and taxable years thereafter:

	The applicable amount is:
Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	100,000
2nd taxable year thereafter.....	75,000

1		The applicable
2		amount is:
3	3rd taxable year thereafter.....	75,000
4	Each taxable year thereafter.....	50,000

5
6 (h) Any amounts deducted under subdivision (a) with respect
7 to property subject to this section that ceases to be used in the
8 taxpayer's trade or business within an enterprise zone at any time
9 before the close of the second taxable year after the property is
10 placed in service shall be included in income in the taxable year
11 in which the property ceases to be so used.

12 (i) (1) This section shall cease to be operative for taxable years
13 beginning on or after January 1, 2011.

14 (2) This section shall be repealed as of December 1, 2011.

15 SEC. 99. Section 17267.6 of the Revenue and Taxation Code
16 is amended to read:

17 17267.6. (a) For each taxable year beginning on or after
18 January 1, 1998, a qualified taxpayer may elect to treat 40 percent
19 of the cost of any Section 17267.6 property as an expense that is
20 not chargeable to a capital account. Any cost so treated shall be
21 allowed as a deduction for the taxable year in which the qualified
22 taxpayer places the Section 17267.6 property in service.

23 (b) In the case of a husband and wife filing separate returns for
24 a taxable year, the applicable amount under subdivision (a) shall
25 be equal to 50 percent of the percentage specified in subdivision
26 (a).

27 (c) (1) An election under this section for any taxable year shall
28 do both of the following:

29 (A) Specify the items of Section 17267.6 property to which the
30 election applies and the percentage of the cost of each of those
31 items that are to be taken into account under subdivision (a).

32 (B) Be made on the qualified taxpayer's original return of the
33 tax imposed by this part for the taxable year.

34 (2) Any election made under this section, and any specification
35 contained in that election, may not be revoked except with the
36 consent of the Franchise Tax Board.

37 (d) (1) For purposes of this section, "Section 17267.6 property"
38 means any recovery property that is:

39 (A) Section 1245 property (as defined in Section 1245(a)(3) of
40 the Internal Revenue Code).

1 (B) Purchased and placed in service by the qualified taxpayer
2 for exclusive use in a trade or business conducted within a targeted
3 tax area designated pursuant to Chapter 12.93 (commencing with
4 Section 7097) of Division 7 of Title 1 of the Government Code.

5 (C) Purchased and placed in service before the date the targeted
6 tax area designation expires, is revoked, is no longer binding, or
7 becomes inoperative.

8 (2) For purposes of paragraph (1), “purchase” means any
9 acquisition of property, but only if both of the following apply:

10 (A) The property is not acquired from a person whose
11 relationship to the person acquiring it would result in the
12 disallowance of losses under Section 267 or Section 707(b) of the
13 Internal Revenue Code. However, in applying Sections 267(b) and
14 267(c) for purposes of this section, Section 267(c)(4) shall be
15 treated as providing that the family of an individual shall include
16 only the individual’s spouse, ancestors, and lineal descendants.

17 (B) The basis of the property in the hands of the person acquiring
18 it is not determined in whole or in part by reference to the adjusted
19 basis of that property in the hands of the person from whom it is
20 acquired.

21 (3) For purposes of this section, the cost of property does not
22 include that portion of the basis of the property that is determined
23 by reference to the basis of other property held at any time by the
24 person acquiring the property.

25 (4) This section shall not apply to estates and trusts.

26 (5) This section shall not apply to any property for which the
27 qualified taxpayer may not make an election for the taxable year
28 under Section 179 of the Internal Revenue Code because of the
29 application of the provisions of Section 179(d) of the Internal
30 Revenue Code.

31 (6) In the case of a partnership, the percentage limitation
32 specified in subdivision (a) shall apply at the partnership level and
33 at the partner level.

34 (e) (1) For purposes of this section, “qualified taxpayer” means
35 a person or entity that meets both of the following:

36 (A) Is engaged in a trade or business within a targeted tax area
37 designated pursuant to Chapter 12.93 (commencing with Section
38 7097) of Division 7 of Title 1 of the Government Code.

39 (B) Is engaged in those lines of business described in Codes
40 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,

inclusive; 4500 to 4599, inclusive, and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United State Office of Management and Budget, 1987 edition.

(2) In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any deduction under this section or Section 24356.6 shall be allowed to the pass-through entity and passed through to the partners or shareholders in accordance with applicable provisions of this part of Part 11 (commencing with Section 23001). For purposes of this subparagraph, the term “pass-through entity” means any partnership or S corporation.

(f) Any qualified taxpayer who elects to be subject to this section shall not be entitled to claim for the same property, the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets. However, the qualified taxpayer may claim depreciation by any method permitted by Section 168 of the Internal Revenue Code, commencing with the taxable year following the taxable year in which the Section 17267.6 property is placed in service.

(g) The aggregate cost of all Section 17267.6 property that may be taken into account under subdivision (a) for any taxable year shall not exceed the following applicable amount for the taxable year of the designation of the relevant targeted tax area and taxable years thereafter:

	The applicable amount is:
Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	100,000
2nd taxable year thereafter.....	75,000
3rd taxable year thereafter.....	75,000
Each taxable year thereafter.....	50,000

(h) Any amounts deducted under subdivision (a) with respect to Section 17267.6 property that ceases to be used in the qualified taxpayer’s trade or business within a targeted tax area at any time before the close of the second taxable year after the property is placed in service shall be included in income in the taxable year in which the property ceases to be so used.

1 (i) (1) This section shall cease to be operative for taxable years
2 beginning on or after January 1, 2011.

3 (2) This section shall be repealed as of December 1, 2011.

4 SEC. 100. Section 17268 of the Revenue and Taxation Code
5 is amended to read:

6 17268. (a) For each taxable year beginning on or after January
7 1, 1995, a taxpayer may elect to treat 40 percent of the cost of any
8 Section 17268 property as an expense that is not chargeable to the
9 capital account. Any cost so treated shall be allowed as a deduction
10 for the taxable year in which the taxpayer places the Section 17268
11 property in service.

12 (b) In the case of a husband or wife filing separate returns for
13 a taxable year in which a spouse is entitled to the deduction under
14 subdivision (a), the applicable amount shall be equal to 50 percent
15 of the amount otherwise determined under subdivision (a).

16 (c) (1) An election under this section for any taxable year shall
17 meet both of the following requirements:

18 (A) Specify the items of Section 17268 property to which the
19 election applies and the portion of the cost of each of those items
20 that is to be taken into account under subdivision (a).

21 (B) Be made on the taxpayer's return of the tax imposed by this
22 part for the taxable year.

23 (2) Any election made under this section, and any specification
24 contained in that election, may not be revoked except with the
25 consent of the Franchise Tax Board.

26 (d) (1) For purposes of this section, "Section 17268 property"
27 means any recovery property that is each of the following:

28 (A) Section 1245 property (as defined in Section 1245(a)(3) of
29 the Internal Revenue Code).

30 (B) Purchased by the taxpayer for exclusive use in a trade or
31 business conducted within a LAMBRA.

32 (C) Purchased before the date the LAMBRA designation expires,
33 is no longer binding, or becomes inoperative.

34 (2) For purposes of paragraph (1), "purchase" means any
35 acquisition of property, but only if both of the following apply:

36 (A) The property is not acquired from a person whose
37 relationship to the person acquiring it would result in the
38 disallowance of losses under Section 267 or 707(b) of the Internal
39 Revenue Code (but, in applying Section 267(b) and Section 267(c)
40 of the Internal Revenue Code for purposes of this section, Section

1 267(c)(4) of the Internal Revenue Code shall be treated as
2 providing that the family of an individual shall include only his or
3 her spouse, ancestors, and lineal descendants).

4 (B) The basis of the property in the hands of the person acquiring
5 it is not determined by either of the following:

6 (i) In whole or in part by reference to the adjusted basis of the
7 property in the hands of the person from whom acquired.

8 (ii) Under Section 1014 of the Internal Revenue Code, relating
9 to basis of property acquired from a decedent.

10 (3) For purposes of this section, the cost of property does not
11 include that portion of the basis of the property that is determined
12 by reference to the basis of other property held at any time by the
13 person acquiring the property.

14 (4) This section shall not apply to estates and trusts.

15 (5) This section shall not apply to any property for which the
16 taxpayer may not make an election for the taxable year under
17 Section 179 of the Internal Revenue Code because of the provisions
18 of Section 179(d) of the Internal Revenue Code.

19 (6) In the case of a partnership, the dollar limitation in
20 subdivision (f) shall apply at the partnership level and at the partner
21 level.

22 (7) This section shall not apply to any property described in
23 Section 168(f) of the Internal Revenue Code, relating to property
24 to which Section 168 of the Internal Revenue Code does not apply.

25 (e) For purposes of this section:

26 (1) "LAMBRA" means a local agency military base recovery
27 area designated in accordance with the provisions of Section 7114
28 of the Government Code.

29 (2) "Taxpayer" means a taxpayer that conducts a trade or
30 business within a LAMBRA and, for the first two taxable years,
31 has a net increase in jobs (defined as 2,000 paid hours per employee
32 per year) of one or more employees in the LAMBRA.

33 (A) The net increase in the number of jobs shall be determined
34 by subtracting the total number of full-time employees (defined
35 as 2,000 paid hours per employee per year) the taxpayer employed
36 in this state in the taxable year prior to commencing business
37 operations in the LAMBRA from the total number of full-time
38 employees the taxpayer employed in this state during the second
39 taxable year after commencing business operations in the
40 LAMBRA. For taxpayers who commence doing business in this

state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a taxpayer who first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B) the divisors “2,000” and “12” shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(f) The aggregate cost of all Section 17268 property that may be taken into account under subdivision (a) for any taxable year shall not exceed the following applicable amounts for the taxable year of the designation of the relevant LAMBRA and taxable years thereafter:

	The applicable amount is:
Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	100,000
2nd taxable year thereafter.....	75,000
3rd taxable year thereafter.....	75,000
Each taxable year thereafter.....	50,000

(g) This section shall apply only to property that is used exclusively in a trade or business conducted within a LAMBRA.

(h) (1) Any amounts deducted under subdivision (a) with respect to property that ceases to be used in the trade or business within a LAMBRA at any time before the close of the second taxable

1 year after the property was placed in service shall be included in
2 income for that year.

3 (2) At the close of the second taxable year, if the taxpayer has
4 not increased the number of its employees as determined by
5 paragraph (2) of subdivision (e), then the amount of the deduction
6 previously claimed shall be added to the taxpayer's taxable income
7 for the taxpayer's second taxable year.

8 (i) Any taxpayer who elects to be subject to this section shall
9 not be entitled to claim for the same property the deduction under
10 Section 179 of the Internal Revenue Code, relating to an election
11 to expense certain depreciable business assets.

12 (j) (1) This section shall cease to be operative for taxable years
13 beginning on or after January 1, 2011.

14 (2) This section shall be repealed as of December 1, 2011.

15 SEC. 101. Section 17276.1 of the Revenue and Taxation Code
16 is amended to read:

17 17276.1. (a) A qualified taxpayer, as defined in Section
18 17276.7, may elect to take the deduction provided by Section 172
19 of the Internal Revenue Code, relating to the net operating loss
20 deduction, as modified by Section 17276.20, with the following
21 exceptions:

22 (1) Subdivision (a) of Section 17276.20, relating to years in
23 which allowable losses are sustained, shall not be applicable.

24 (2) Subdivision (b) of Section 17276.20, relating to the
25 50-percent reduction of losses, shall not be applicable.

26 (b) The election to compute the net operating loss under this
27 section shall be made in a statement attached to the original return,
28 timely filed for the year in which the net operating loss is incurred
29 and shall be irrevocable. In addition to the exceptions specified in
30 subdivision (a), the provisions of Section 17276.7 shall be
31 applicable.

32 (c) The changes to this section made by the act adding this
33 subdivision shall apply to taxable years beginning on or after
34 January 1, 2011.

35 SEC. 102. Section 17276.2 of the Revenue and Taxation Code
36 is amended to read:

37 17276.2. (a) The term "qualified taxpayer" as used in Section
38 17276.1 includes a person or entity engaged in the conduct of a
39 trade or business within an enterprise zone designated pursuant to
40 Chapter 12.8 (commencing with Section 7070) of Division 7 of

1 Title 1 of the Government Code. For purposes of this subdivision,
2 all of the following shall apply:

3 (1) A net operating loss shall not be a net operating loss
4 carryback to any taxable year and a net operating loss for any
5 taxable year beginning on or after the date that the area in which
6 the taxpayer conducts a trade or business is designated as an
7 enterprise zone shall be a net operating loss carryover to each of
8 the 15 taxable years following the taxable year of loss.

9 (2) For purposes of this subdivision:

10 (A) “Net operating loss” means the loss determined under
11 Section 172 of the Internal Revenue Code, as modified by Section
12 17276.1, attributable to the taxpayer’s business activities within
13 the enterprise zone (as defined in Chapter 12.8 (commencing with
14 Section 7070) of Division 7 of Title 1 of the Government Code)
15 prior to the enterprise zone expiration date. That attributable loss
16 shall be determined in accordance with Chapter 17 (commencing
17 with Section 25101) of Part 11, modified for purposes of this
18 subdivision, as follows:

19 (i) Loss shall be apportioned to the enterprise zone by
20 multiplying total loss from the business by a fraction, the numerator
21 of which is the property factor plus the payroll factor, and the
22 denominator of which is two.

23 (ii) “The enterprise zone” shall be substituted for “this state.”

24 (B) A net operating loss carryover shall be a deduction only
25 with respect to the taxpayer’s business income attributable to the
26 enterprise zone as defined in Chapter 12.8 (commencing with
27 Section 7070) of Division 7 of Title 1 of the Government Code.

28 (C) Attributable income is that portion of the taxpayer’s
29 California source business income that is apportioned to the
30 enterprise zone. For that purpose, the taxpayer’s business income
31 attributable to sources in this state first shall be determined in
32 accordance with Chapter 17 (commencing with Section 25101) of
33 Part 11. That business income shall be further apportioned to the
34 enterprise zone in accordance with Article 2 (commencing with
35 Section 25120) of Chapter 17 of Part 11, modified for purposes
36 of this subdivision as follows:

37 (i) Business income shall be apportioned to the enterprise zone
38 by multiplying the total California business income of the taxpayer
39 by a fraction, the numerator of which is the property factor plus

1 the payroll factor, and the denominator of which is two. For
2 purposes of this clause:

3 (I) The property factor is a fraction, the numerator of which is
4 the average value of the taxpayer's real and tangible personal
5 property owned or rented and used in the enterprise zone during
6 the taxable year, and the denominator of which is the average value
7 of all the taxpayer's real and tangible personal property owned or
8 rented and used in this state during the taxable year.

9 (II) The payroll factor is a fraction, the numerator of which is
10 the total amount paid by the taxpayer in the enterprise zone during
11 the taxable year for compensation, and the denominator of which
12 is the total compensation paid by the taxpayer in this state during
13 the taxable year.

14 (ii) If a loss carryover is allowable pursuant to this section for
15 any taxable year after the enterprise zone designation has expired,
16 the enterprise zone shall be deemed to remain in existence for
17 purposes of computing the limitation set forth in subparagraph (B)
18 and allowing a net operating loss deduction.

19 (D) "Enterprise zone expiration date" means the date the
20 enterprise zone designation expires, is no longer binding, or
21 becomes inoperative.

22 (3) The changes made to this subdivision by the act adding this
23 paragraph shall apply to taxable years beginning on or after January
24 1, 1998.

25 (b) A taxpayer who qualifies as a "qualified taxpayer" under
26 one or more sections shall, for the taxable year of the net operating
27 loss and any taxable year to which that net operating loss may be
28 carried, designate on the original return filed for each year the
29 section which applies to that taxpayer with respect to that net
30 operating loss. If the taxpayer is eligible to qualify under more
31 than one section, the designation is to be made after taking into
32 account subdivision (c).

33 (c) If a taxpayer is eligible to qualify under this section and
34 either Section 17276.4, 17276.5, or 17276.6 as a "qualified
35 taxpayer," with respect to a net operating loss in a taxable year,
36 the taxpayer shall designate which section is to apply to the
37 taxpayer.

38 (d) Notwithstanding Section 17276, the amount of the loss
39 determined under this section or Section 17276.4, 17276.5, or
40 17276.6 shall be the only net operating loss allowed to be carried

1 over from that taxable year and the designation under subdivision
2 (b) shall be included in the election under Section 17276.1.

3 (e) (1) This section shall cease to be operative for taxable years
4 beginning on or after January 1, 2011.

5 (2) This section shall be repealed as of December 1, 2011.

6 SEC. 103. Section 17276.4 of the Revenue and Taxation Code
7 is amended to read:

8 17276.4. (a) The term “qualified taxpayer” as used in Section
9 17276.1 includes a person or entity engaged in the conduct of a
10 trade or business within the Los Angeles Revitalization Zone
11 designated pursuant to the former Section 7102 of the Government
12 Code. For purposes of this subdivision, all of the following shall
13 apply:

14 (1) A net operating loss shall not be a net operating loss
15 carryback for any taxable year, and a net operating loss for any
16 taxable year beginning on or after the date the area in which the
17 taxpayer conducts a trade or business is designated the Los Angeles
18 Revitalization Zone shall be a net operating loss carryover to each
19 following taxable year that ends before the Los Angeles
20 Revitalization Zone expiration date or to each of the 15 taxable
21 years following the taxable year of loss, if longer.

22 (2) “Net operating loss” means the loss determined under
23 Section 172 of the Internal Revenue Code, as modified by Section
24 17276.1, attributable to the taxpayer’s business activities within
25 the Los Angeles Revitalization Zone (as defined in the former
26 Section 7102 of the Government Code) prior to the Los Angeles
27 Revitalization Zone expiration date. The attributable loss shall be
28 determined in accordance with Chapter 17 (commencing with
29 Section 25101) of Part 11, modified as follows:

30 (A) Loss shall be apportioned to the Los Angeles Revitalization
31 Zone by multiplying total loss from the business by a fraction, the
32 numerator of which is the property factor plus the payroll factor,
33 and the denominator of which is 2.

34 (B) “The Los Angeles Revitalization Zone” shall be substituted
35 for “this state.”

36 (3) A net operating loss carryover shall be a deduction only with
37 respect to the taxpayer’s business income attributable to the Los
38 Angeles Revitalization Zone (as defined in the former Section
39 7102 of the Government Code) determined in accordance with
40 subdivision (c).

1 (4) If a loss carryover is allowable pursuant to this section for
2 any taxable year after the Los Angeles Revitalization Zone
3 designation has expired, the Los Angeles Revitalization Zone shall
4 be deemed to remain in existence for purposes of computing the
5 limitation set forth in paragraph (2) and allowing a net operating
6 loss deduction.

7 (5) Attributable income shall be that portion of the taxpayer's
8 California source business income which is apportioned to the Los
9 Angeles Revitalization Zone. For that purpose, the taxpayer's
10 business income attributable to sources in this state first shall be
11 determined in accordance with Chapter 17 (commencing with
12 Section 25101) of Part 11. That business income shall be further
13 apportioned to the Los Angeles Revitalization Zone in accordance
14 with Article 2 (commencing with Section 25120) of Chapter 17
15 of Part 11, modified as follows:

16 (A) Business income shall be apportioned to the Los Angeles
17 Revitalization Zone by multiplying total California business income
18 of the taxpayer by a fraction, the numerator of which is the property
19 factor plus the payroll factor, and the denominator of which is 2.

20 (B) The property factor is a fraction, the numerator of which is
21 the average value of the taxpayer's real and tangible personal
22 property owned or rented and used in the Los Angeles
23 Revitalization Zone during the taxable year and the denominator
24 of which is the average value of all the taxpayer's real and tangible
25 personal property owned or rented and used in this state during
26 the taxable year.

27 (C) The payroll factor is a fraction, the numerator of which is
28 the total amount paid by the taxpayer in the Los Angeles
29 Revitalization Zone during the taxable year for compensation, and
30 the denominator of which is the total compensation paid by the
31 taxpayer in this state during the taxable year.

32 (6) "Los Angeles Revitalization Zone expiration date" means
33 the date the Los Angeles Revitalization Zone designation expires,
34 is repealed, or becomes inoperative pursuant to the former Section
35 7102, 7103, or 7104 of the Government Code.

36 (b) This section shall be inoperative on the first day of the
37 taxable year beginning on or after the determination date, and each
38 taxable year thereafter, with respect to the taxpayer's business
39 activities within a geographic area that is excluded from the map
40 pursuant to the former Section 7102 of the Government Code, or

1 an excluded area determined pursuant to the former Section 7104
2 of the Government Code. The determination date is the earlier of
3 the first effective date of a determination under the former Section
4 7102 of the Government Code occurring after December 1, 1994,
5 or the first effective date of an exclusion of an area from the
6 amended Los Angeles Revitalization Zone under the former Section
7 7104 of the Government Code. However, if the taxpayer has any
8 unused loss amount as of the date this section becomes inoperative,
9 that unused loss amount may continue to be carried forward as
10 provided in this section.

11 (c) A taxpayer who qualifies as a “qualified taxpayer” under
12 one or more sections shall, for the taxable year of the net operating
13 loss and any taxable year to which that net operating loss may be
14 carried, designate on the original return filed for each year the
15 section that applies to that taxpayer with respect to that net
16 operating loss. If the taxpayer is eligible to qualify under more
17 than one section, the designation is to be made after taking into
18 account subdivision (d).

19 (d) If a taxpayer is eligible to qualify under this section and
20 either Section 17276.2, 17276.5, or 17276.6 as a “qualified
21 taxpayer,” with respect to a net operating loss in a taxable year,
22 the taxpayer shall designate which section is to apply to the
23 taxpayer.

24 (e) Notwithstanding Section 17276, the amount of the loss
25 determined under this section or Section 17276.2, 17276.5, or
26 17276.6 shall be the only net operating loss allowed to be carried
27 over from that taxable year and the designation under subdivision
28 (c) shall be included in the election under Section 17276.1.

29 (f) This section shall cease to be operative on December 1, 1998.

30 (g) (1) The changes made to this section by the act adding this
31 subdivision shall apply to taxable years beginning on or after
32 January 1, 2011.

33 (2) This section shall be repealed as of December 1, 2011.

34 SEC. 104. Section 17276.5 of the Revenue and Taxation Code
35 is amended to read:

36 17276.5. (a) For each taxable year beginning on or after
37 January 1, 1995, the term “qualified taxpayer” as used in Section
38 17276.1 includes a taxpayer engaged in the conduct of a trade or
39 business within a LAMBRA. For purposes of this subdivision, all
40 of the following shall apply:

1 (1) A net operating loss shall not be a net operating loss
2 carryback for any taxable year, and a net operating loss for any
3 taxable year beginning on or after the date the area in which the
4 taxpayer conducts a trade or business is designated a LAMBRA
5 shall be a net operating loss carryover to each following taxable
6 year that ends before the LAMBRA expiration date or to each of
7 the 15 taxable years following the taxable year of loss, if longer.

8 (2) “LAMBRA” means a local agency military base recovery
9 area designated in accordance with Section 7114 of the Government
10 Code.

11 (3) “Taxpayer” means a person or entity that conducts a trade
12 or business within a LAMBRA and, for the first two taxable years,
13 has a net increase in jobs (defined as 2,000 paid hours per employee
14 per year) of one or more employees in the LAMBRA and this state.
15 For purposes of this paragraph:

16 (A) The net increase in the number of jobs shall be determined
17 by subtracting the total number of full-time employees (defined
18 as 2,000 paid hours per employee per year) the taxpayer employed
19 in this state in the taxable year prior to commencing business
20 operations in the LAMBRA from the total number of full-time
21 employees the taxpayer employed in this state during the second
22 taxable year after commencing business operations in the
23 LAMBRA. For taxpayers who commence doing business in this
24 state with their LAMBRA business operation, the number of
25 employees for the taxable year prior to commencing business
26 operations in the LAMBRA shall be zero. The deduction shall be
27 allowed only if the taxpayer has a net increase in jobs in the state,
28 and if one or more full-time employees is employed within the
29 LAMBRA.

30 (B) The total number of employees employed in the LAMBRA
31 shall equal the sum of both of the following:

32 (i) The total number of hours worked in the LAMBRA for the
33 taxpayer by employees (not to exceed 2,000 hours per employee)
34 who are paid an hourly wage divided by 2,000.

35 (ii) The total number of months worked in the LAMBRA for
36 the taxpayer by employees who are salaried employees divided
37 by 12.

38 (C) In the case of a taxpayer who first commences doing
39 business in the LAMBRA during the taxable year, for purposes of
40 clauses (i) and (ii), respectively, of subparagraph (B), the divisors

1 “2,000” and “12” shall be multiplied by a fraction, the numerator
2 of which is the number of months of the taxable year that the
3 taxpayer was doing business in the LAMBRA and the denominator
4 of which is 12.

5 (4) “Net operating loss” means the loss determined under
6 Section 172 of the Internal Revenue Code, as modified by Section
7 17276.1, attributable to the taxpayer’s business activities within a
8 LAMBRA prior to the LAMBRA expiration date. The attributable
9 loss shall be determined in accordance with Chapter 17
10 (commencing with Section 25101) of Part 11, modified for
11 purposes of this section as follows:

12 (A) Loss shall be apportioned to a LAMBRA by multiplying
13 total loss from the business by a fraction, the numerator of which
14 is the property factor plus the payroll factor, and the denominator
15 of which is 2.

16 (B) “The LAMBRA” shall be substituted for “this state.”

17 (5) A net operating loss carryover shall be a deduction only with
18 respect to the taxpayer’s business income attributable to a
19 LAMBRA.

20 (6) Attributable income is that portion of the taxpayer’s
21 California source business income that is apportioned to the
22 LAMBRA. For that purpose, the taxpayer’s business income
23 attributable to sources in this state first shall be determined in
24 accordance with Chapter 17 (commencing with Section 25101) of
25 Part 11. That business income shall be further apportioned to the
26 LAMBRA in accordance with Article 2 (commencing with Section
27 25120) of Chapter 17 of Part 11, modified for purposes of this
28 subdivision as follows:

29 (A) Business income shall be apportioned to a LAMBRA by
30 multiplying total California business income of the taxpayer by a
31 fraction, the numerator of which is the property factor plus the
32 payroll factor, and the denominator of which is two. For purposes
33 of this clause:

34 (i) The property factor is a fraction, the numerator of which is
35 the average value of the taxpayer’s real and tangible personal
36 property owned or rented and used in the LAMBRA during the
37 taxable year, and the denominator of which is the average value
38 of all the taxpayer’s real and tangible personal property owned or
39 rented and used in this state during the taxable year.

1 (ii) The payroll factor is a fraction, the numerator of which is
2 the total amount paid by the taxpayer in the LAMBRA during the
3 taxable year for compensation, and the denominator of which is
4 the total compensation paid by the taxpayer in this state during the
5 taxable year.

6 (B) If a loss carryover is allowable pursuant to this section for
7 any taxable year after the LAMBRA designation has expired, the
8 LAMBRA shall be deemed to remain in existence for purposes of
9 computing the limitation specified in paragraph (5) and allowing
10 a net operating loss deduction.

11 (7) "LAMBRA expiration date" means the date the LAMBRA
12 designation expires, is no longer binding, or becomes inoperative
13 pursuant to Section 7110 of the Government Code.

14 (b) A taxpayer who qualifies as a "qualified taxpayer" under
15 one or more sections shall, for the taxable year of the net operating
16 loss and any taxable year to which that net operating loss may be
17 carried, designate on the original return filed for each year the
18 section that applies to that taxpayer with respect to that net
19 operating loss. If the taxpayer is eligible to qualify under more
20 than one section, the designation is to be made after taking into
21 account subdivision (c).

22 (c) If a taxpayer is eligible to qualify under this section and
23 either Section 17276.2, 17276.4, or 17276.6 as a "qualified
24 taxpayer," with respect to a net operating loss in a taxable year,
25 the taxpayer shall designate which section is to apply to the
26 taxpayer.

27 (d) Notwithstanding Section 17276, the amount of the loss
28 determined under this section or Section 17276.2, 17276.4, or
29 17276.6 shall be the only net operating loss allowed to be carried
30 over from that taxable year and the designation under subdivision
31 (b) shall be included in the election under Section 17276.1.

32 (e) This section shall apply to taxable years beginning on or
33 after January 1, 1998.

34 (f) (1) This section shall cease to be operative for taxable years
35 beginning on or after January 1, 2011.

36 (2) This section shall be repealed as of December 1, 2011.

37 SEC. 105. Section 17276.6 of the Revenue and Taxation Code
38 is amended to read:

39 17276.6. (a) For each taxable year beginning on or after
40 January 1, 1998, the term "qualified taxpayer" as used in Section

1 17276.1 includes a person or entity that meets both of the
2 following:

3 (1) Is engaged in a trade or business within a targeted tax area
4 designated pursuant to Chapter 12.93 (commencing with Section
5 7097) of Division 7 of Title 1 of the Government Code.

6 (2) Is engaged in those lines of business described in Codes
7 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
8 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
9 of the Standard Industrial Classification (SIC) Manual published
10 by the United States Office of Management and Budget, 1987
11 edition. In the case of any pass-through entity, the determination
12 of whether a taxpayer is a qualified taxpayer under this section
13 shall be made at the entity level.

14 (b) For purposes of subdivision (a), all of the following shall
15 apply:

16 (1) A net operating loss shall not be a net operating loss
17 carryback to any taxable year and a net operating loss for any
18 taxable year beginning on or after the date that the area in which
19 the qualified taxpayer conducts a trade or business is designated
20 as a targeted tax area shall be a net operating loss carryover to each
21 of the 15 taxable years following the taxable year of loss.

22 (2) "Net operating loss" means the loss determined under
23 Section 172 of the Internal Revenue Code, as modified by Section
24 17276.1, attributable to the qualified taxpayer's business activities
25 within the targeted tax area (as defined in Chapter 12.93
26 (commencing with Section 7097) of Division 7 of Title 1 of the
27 Government Code) prior to the targeted tax area expiration date.
28 That attributable loss shall be determined in accordance with
29 Chapter 17 (commencing with Section 25101) of Part 11, modified
30 for purposes of this section as follows:

31 (A) Loss shall be apportioned to the targeted tax area by
32 multiplying total loss from the business by a fraction, the numerator
33 of which is the property factor plus the payroll factor, and the
34 denominator of which is 2.

35 (B) "The targeted tax area" shall be substituted for "this state."

36 (3) A net operating loss carryover shall be a deduction only with
37 respect to the qualified taxpayer's business income attributable to
38 the targeted tax area as defined in Chapter 12.93 (commencing
39 with Section 7097) of Division 7 of Title 1 of the Government
40 Code.

(4) Attributable income shall be that portion of the qualified taxpayer's California source business income that is apportioned to the targeted tax area. For that purpose, the qualified taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this subdivision as follows:

(A) Business income shall be apportioned to the targeted tax area by multiplying the total business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this clause:

(i) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(ii) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(B) If a loss carryover is allowable pursuant to this subdivision for any taxable year after the targeted tax area expiration date, the targeted tax area designation shall be deemed to remain in existence for purposes of computing the limitation specified in subparagraph (B) and allowing a net operating loss deduction.

(5) "Targeted tax area expiration date" means the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(b) A taxpayer who qualifies as a "qualified taxpayer" under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year the section that applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more

1 than one section, the designation is to be made after taking into
2 account subdivision (c).

3 (c) If a taxpayer is eligible to qualify under this section and
4 either Section 17276.2, 17276.4, or 17276.5 as a “qualified
5 taxpayer,” with respect to a net operating loss in a taxable year,
6 the taxpayer shall designate which section is to apply to the
7 taxpayer.

8 (d) Notwithstanding Section 17276, the amount of the loss
9 determined under this section or Section 17276.2, 17276.4, or
10 17276.5 shall be the only net operating loss allowed to be carried
11 over from that taxable year and the designation under subdivision
12 (b) shall be included in the election under Section 17276.1.

13 (e) This section shall apply to taxable years beginning on or
14 after January 1, 1998.

15 (f) (1) This section shall cease to be operative for taxable years
16 beginning on or after January 1, 2011.

17 (2) This section shall be repealed as of December 1, 2011.

18 SEC. 106. Section 17276.20 of the Revenue and Taxation Code
19 is amended to read:

20 17276.20. Except as provided in Sections 17276.1 and 17276.7,
21 the deduction provided by Section 172 of the Internal Revenue
22 Code, relating to net operating loss deduction, shall be modified
23 as follows:

24 (a) (1) Net operating losses attributable to taxable years
25 beginning before January 1, 1987, shall not be allowed.

26 (2) A net operating loss shall not be carried forward to any
27 taxable year beginning before January 1, 1987.

28 (b) (1) Except as provided in paragraphs (2) and (3), the
29 provisions of Section 172(b)(2) of the Internal Revenue Code,
30 relating to amount of carrybacks and carryovers, shall be modified
31 so that the applicable percentage of the entire amount of the net
32 operating loss for any taxable year shall be eligible for carryover
33 to any subsequent taxable year. For purposes of this subdivision,
34 the applicable percentage shall be:

35 (A) Fifty percent for any taxable year beginning before January
36 1, 2000.

37 (B) Fifty-five percent for any taxable year beginning on or after
38 January 1, 2000, and before January 1, 2002.

39 (C) Sixty percent for any taxable year beginning on or after
40 January 1, 2002, and before January 1, 2004.

1 (D) One hundred percent for any taxable year beginning on or
2 after January 1, 2004.

3 (2) In the case of a taxpayer who has a net operating loss in any
4 taxable year beginning on or after January 1, 1994, and who
5 operates a new business during that taxable year, each of the
6 following shall apply to each loss incurred during the first three
7 taxable years of operating the new business:

8 (A) If the net operating loss is equal to or less than the net loss
9 from the new business, 100 percent of the net operating loss shall
10 be carried forward as provided in subdivision (d).

11 (B) If the net operating loss is greater than the net loss from the
12 new business, the net operating loss shall be carried over as
13 follows:

14 (i) With respect to an amount equal to the net loss from the new
15 business, 100 percent of that amount shall be carried forward as
16 provided in subdivision (d).

17 (ii) With respect to the portion of the net operating loss that
18 exceeds the net loss from the new business, the applicable
19 percentage of that amount shall be carried forward as provided in
20 subdivision (d).

21 (C) For purposes of Section 172(b)(2) of the Internal Revenue
22 Code, the amount described in clause (ii) of subparagraph (B) shall
23 be absorbed before the amount described in clause (i) of
24 subparagraph (B).

25 (3) In the case of a taxpayer who has a net operating loss in any
26 taxable year beginning on or after January 1, 1994, and who
27 operates an eligible small business during that taxable year, each
28 of the following shall apply:

29 (A) If the net operating loss is equal to or less than the net loss
30 from the eligible small business, 100 percent of the net operating
31 loss shall be carried forward to the taxable years specified in
32 subdivision (d).

33 (B) If the net operating loss is greater than the net loss from the
34 eligible small business, the net operating loss shall be carried over
35 as follows:

36 (i) With respect to an amount equal to the net loss from the
37 eligible small business, 100 percent of that amount shall be carried
38 forward as provided in subdivision (d).

39 (ii) With respect to that portion of the net operating loss that
40 exceeds the net loss from the eligible small business, the applicable

1 percentage of that amount shall be carried forward as provided in
2 subdivision (d).

3 (C) For purposes of Section 172(b)(2) of the Internal Revenue
4 Code, the amount described in clause (ii) of subparagraph (B) shall
5 be absorbed before the amount described in clause (i) of
6 subparagraph (B).

7 (4) In the case of a taxpayer who has a net operating loss in a
8 taxable year beginning on or after January 1, 1994, and who
9 operates a business that qualifies as both a new business and an
10 eligible small business under this section, that business shall be
11 treated as a new business for the first three taxable years of the
12 new business.

13 (5) In the case of a taxpayer who has a net operating loss in a
14 taxable year beginning on or after January 1, 1994, and who
15 operates more than one business, and more than one of those
16 businesses qualifies as either a new business or an eligible small
17 business under this section, paragraph (2) shall be applied first,
18 except that if there is any remaining portion of the net operating
19 loss after application of clause (i) of subparagraph (B) of that
20 paragraph, paragraph (3) shall be applied to the remaining portion
21 of the net operating loss as though that remaining portion of the
22 net operating loss constituted the entire net operating loss.

23 (6) For purposes of this section, the term “net loss” means the
24 amount of net loss after application of Sections 465 and 469 of the
25 Internal Revenue Code.

26 (c) Section 172(b)(1) of the Internal Revenue Code, relating to
27 years to which the loss may be carried, is modified as follows:

28 (1) Net operating loss carrybacks shall not be allowed for any
29 net operating losses attributable to taxable years beginning before
30 January 1, 2013.

31 (2) A net operating loss attributable to taxable years beginning
32 on or after January 1, 2013, shall be a net operating loss carryback
33 to each of the two taxable years preceding the taxable year of the
34 loss in lieu of the number of years provided therein.

35 (A) For a net operating loss attributable to a taxable year
36 beginning on or after January 1, 2013, and before January 1, 2014,
37 the amount of carryback to any taxable year shall not exceed 50
38 percent of the net operating loss.

39 (B) For a net operating loss attributable to a taxable year
40 beginning on or after January 1, 2014, and before January 1, 2015,

1 the amount of carryback to any taxable year shall not exceed 75
2 percent of the net operating loss.

3 (C) For a net operating loss attributable to a taxable year
4 beginning on or after January 1, 2015, the amount of carryback to
5 any taxable year shall not exceed 100 percent of the net operating
6 loss.

7 (3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the
8 Internal Revenue Code, relating to special rules for REITs, and
9 Section 172(b)(1)(E) of the Internal Revenue Code, relating to
10 excess interest loss, and Section 172(h) of the Internal Revenue
11 Code, relating to corporate equity reduction interest losses, shall
12 apply as provided.

13 (4) A net operating loss carryback shall not be carried back to
14 any taxable year beginning before January 1, 2011.

15 (d) (1) (A) For a net operating loss for any taxable year
16 beginning on or after January 1, 1987, and before January 1, 2000,
17 Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified
18 to substitute “five taxable years” in lieu of “20 taxable years”
19 except as otherwise provided in paragraphs (2) and (3).

20 (B) For a net operating loss for any taxable year beginning on
21 or after January 1, 2000, and before January 1, 2008, Section
22 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to
23 substitute “10 taxable years” in lieu of “20 taxable years.”

24 (2) For any taxable year beginning before January 1, 2000, in
25 the case of a “new business,” the “five taxable years” in paragraph
26 (1) shall be modified to read as follows:

27 (A) “Eight taxable years” for a net operating loss attributable
28 to the first taxable year of that new business.

29 (B) “Seven taxable years” for a net operating loss attributable
30 to the second taxable year of that new business.

31 (C) “Six taxable years” for a net operating loss attributable to
32 the third taxable year of that new business.

33 (3) For any carryover of a net operating loss for which a
34 deduction is denied by Section 17276.3, the carryover period
35 specified in this subdivision shall be extended as follows:

36 (A) By one year for a net operating loss attributable to taxable
37 years beginning in 1991.

38 (B) By two years for a net operating loss attributable to taxable
39 years beginning prior to January 1, 1991.

(4) The net operating loss attributable to taxable years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 taxable years following the year of the loss if it is incurred by a taxpayer that is under the jurisdiction of the court in a Title 11 or similar case at any time during the income year. The loss carryover provided in the preceding sentence shall not apply to any loss incurred after the date the taxpayer is no longer under the jurisdiction of the court in a Title 11 or similar case.

(e) For purposes of this section:

(1) “Eligible small business” means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars (\$1,000,000) during the taxable year.

(2) Except as provided in subdivision (f), “new business” means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) “Title 11 or similar case” shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or “S” corporation paragraphs (1) and (2) shall be applied to the partnership or “S” corporation.

(f) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first taxable year in which the taxpayer (or any related

1 person) first uses any of the acquired trade or business assets in
2 its business activity.

3 (B) Any acquired assets that constituted property described in
4 Section 1221(1) of the Internal Revenue Code in the hands of the
5 transferor shall not be treated as assets acquired from an existing
6 trade or business, unless those assets also constitute property
7 described in Section 1221(1) of the Internal Revenue Code in the
8 hands of the acquiring taxpayer (or related person).

9 (2) In any case where a taxpayer (or any related person) is
10 engaged in one or more trade or business activities in this state, or
11 has been engaged in one or more trade or business activities in this
12 state within the preceding 36 months (“prior trade or business
13 activity”), and thereafter commences an additional trade or business
14 activity in this state, the additional trade or business activity shall
15 only be treated as a new business if the additional trade or business
16 activity is classified under a different division of the Standard
17 Industrial Classification (SIC) Manual published by the United
18 States Office of Management and Budget, 1987 edition, than are
19 any of the taxpayer’s (or any related person’s) current or prior
20 trade or business activities.

21 (3) In any case where a taxpayer, including all related persons,
22 is engaged in trade or business activities wholly outside of this
23 state and the taxpayer first commences doing business in this state
24 (within the meaning of Section 23101) after December 31, 1993
25 (other than by purchase or other acquisition described in paragraph
26 (1)), the trade or business activity shall be treated as a new business
27 under paragraph (2) of subdivision (e).

28 (4) In any case where the legal form under which a trade or
29 business activity is being conducted is changed, the change in form
30 shall be disregarded and the determination of whether the trade or
31 business activity is a new business shall be made by treating the
32 taxpayer as having purchased or otherwise acquired all or any
33 portion of the assets of an existing trade or business under the rules
34 of paragraph (1) of this subdivision.

35 (5) “Related person” shall mean any person that is related to
36 the taxpayer under either Section 267 or 318 of the Internal
37 Revenue Code.

38 (6) “Acquire” shall include any gift, inheritance, transfer incident
39 to divorce, or any other transfer, whether or not for consideration.

(7) (A) For taxable years beginning on or after January 1, 1997, the term “new business” shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as further amended, and that has not received regulatory approval for any product from the United States Food and Drug Administration.

(B) For purposes of this paragraph:

(i) “Biopharmaceutical activities” means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(ii) “Other biotechnology activities” means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(g) In computing the modifications under Section 172(d)(2) of the Internal Revenue Code, relating to capital gains and losses of taxpayers other than corporations, the exclusion provided by Section 18152.5 shall not be allowed.

(h) Notwithstanding any provisions of this section to the contrary, a deduction shall be allowed to a “qualified taxpayer” as provided in Sections 17276.1 and 17276.7.

(i) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(j) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

1 (k) Except as otherwise provided, the amendments made by
2 Chapter 107 of the Statutes of 2000 shall apply to net operating
3 losses for taxable years beginning on or after January 1, 2000.

4 (l) The changes made to this section by the act adding this
5 subdivision shall apply for taxable years beginning on or after
6 January 1, 2011.

7 SEC. 107. Section 17276.22 of the Revenue and Taxation Code
8 is repealed.

9 SEC. 108. Section 17276.22 is added to the Revenue and
10 Taxation Code, to read:

11 17276.22. (a) For any carryover of a net operating loss for
12 which an election under former Section 17276.2, 17276.4, 17276.5,
13 or 17276.6 was made, the net operating loss carryover amount
14 available for carryover under former Section 17276.2, 17276.4,
15 17276.5, or 17276.6 to the first taxable year beginning on or after
16 January 1, 2011, shall be recalculated by applying the net operating
17 loss rules applicable for the taxable year to which the net operating
18 loss was incurred, as provided in Section 17276.20 or former
19 Section 17276. This recalculated amount, if in excess of zero, shall
20 be added to the amount of any net operating loss attributable to
21 the same taxable year that is available for carryover to the first
22 taxable year beginning on or after January 1, 2011, under Section
23 17276.20 and shall be treated as if no election under former Section
24 17276.2, 17276.4, 17276.5, or 17276.6 had been made with respect
25 to that recalculated amount.

26 (b) To the extent that the application of subdivision (a) reduces
27 the net operating loss carryover amount available for taxable years
28 beginning on or after January 1, 2011, to an amount equal to or
29 less than zero, no amount of net operating loss attributable to this
30 recalculated amount shall be available for carryover to a taxable
31 year beginning on or after January 1, 2011. The application of this
32 section shall not be interpreted to reduce the amount of a net
33 operating loss deduction under former Section 17276, 17276.2,
34 17276.4, 17276.5, or 17276.6 for any taxable year beginning before
35 January 1, 2011.

36 SEC. 109. Section 23101 of the Revenue and Taxation Code
37 is amended to read:

38 23101. (a) "Doing business" means actively engaging in any
39 transaction for the purpose of financial or pecuniary gain or profit.

(b) For taxable years beginning on or after January 1, 2011, a taxpayer is doing business in this state for a taxable year if any of the following conditions has been satisfied:

(1) The taxpayer is organized or commercially domiciled in this state.

(2) Sales, as defined in subdivision (e) or (f) of Section 25120 as applicable for the taxable year, of the taxpayer in this state exceed the lesser of five hundred thousand dollars (\$500,000) or 25 percent of the taxpayer's total sales. For purposes of this paragraph, sales of the taxpayer include sales by an agent or independent contractor of the taxpayer. For purposes of this paragraph, sales in this state shall be determined using the rules for assigning sales under Sections 25135 and 25136, and the regulations thereunder, as modified by regulations under Section 25137.

(3) The real property and tangible personal property of the taxpayer in this state exceed the lesser of fifty thousand dollars (\$50,000) or 25 percent of the taxpayer's total real property and tangible personal property. The value of real and tangible personal property and the determination of whether property is in this state shall be determined using the rules contained in Sections 25129 to 25131, inclusive, and the regulations thereunder, as modified by regulation under Section 25137.

(4) The amount paid in this state by the taxpayer for compensation, as defined in subdivision (c) of Section 25120, exceeds the lesser of fifty thousand dollars (\$50,000) or 25 percent of the total compensation paid by the taxpayer. Compensation in this state shall be determined using the rules for assigning payroll contained in Section 25133 and the regulations thereunder, as modified by regulations under Section 25137.

(c) (1) The Franchise Tax Board shall annually revise the amounts in paragraphs (2), (3), and (4) of subdivision (b) in accordance with subdivision (h) of Section 17041.

(2) For purposes of the adjustment required by paragraph (1), subdivision (h) of Section 17041 shall be applied by substituting "2012" in lieu of "1988."

(d) The sales, property, and payroll of the taxpayer include the taxpayer's pro rata or distributive share of pass-through entities. For purposes of this subdivision, "pass-through entities" means a partnership or an "S" corporation.

1 SEC. 110. Section 23611 is added to the Revenue and Taxation
2 Code, to read:

3 23611. (a) Notwithstanding any other provision or former
4 provision of this part to the contrary, a credit available for carryover
5 under former sections of this part identified in subdivision (b) shall
6 not be allowed to be carried over to any taxable year beginning on
7 or after January 1, 2011.

8 (b) This section shall apply to credit carryovers under the
9 following former sections of this part:

10 (1) Former Section 23612.6, as identified in subparagraph (I)
11 of paragraph (1) of subdivision (d) of Section 23036, as in effect
12 on the effective date of the act adding this section.

13 (2) Former Section 23623.5, as identified in subparagraph (M)
14 of paragraph (1) of subdivision (d) of Section 23036, as in effect
15 on the effective date of the act adding this section.

16 (3) Former Section 23625, as identified in subparagraph (N) of
17 paragraph (1) of subdivision (d) of Section 23036, as in effect on
18 the effective date of the act adding this section.

19 SEC. 111. Section 23612.2 of the Revenue and Taxation Code
20 is amended to read:

21 23612.2. (a) There shall be allowed as a credit against the
22 “tax” (as defined by Section 23036) for the taxable year an amount
23 equal to the sales or use tax paid or incurred during the taxable
24 year by the taxpayer in connection with the taxpayer’s purchase
25 of qualified property.

26 (b) For purposes of this section:

27 (1) “Taxpayer” means a corporation engaged in a trade or
28 business within an enterprise zone.

29 (2) “Qualified property” means:

30 (A) Any of the following:

31 (i) Machinery and machinery parts used for fabricating,
32 processing, assembling, and manufacturing.

33 (ii) Machinery and machinery parts used for the production of
34 renewable energy resources.

35 (iii) Machinery and machinery parts used for either of the
36 following:

37 (I) Air pollution control mechanisms.

38 (II) Water pollution control mechanisms.

1 (iv) Data-processing and communications equipment, including,
2 but not limited to, computers, computer-automated drafting
3 systems, copy machines, telephone systems, and faxes.

4 (v) Motion picture manufacturing equipment central to
5 production and postproduction, including, but not limited to,
6 cameras, audio recorders, and digital image and sound processing
7 equipment.

8 (B) The total cost of qualified property purchased and placed
9 in service in any taxable year that may be taken into account by
10 any taxpayer for purposes of claiming this credit shall not exceed
11 twenty million dollars (\$20,000,000).

12 (C) The qualified property is used by the taxpayer exclusively
13 in an enterprise zone.

14 (D) The qualified property is purchased and placed in service
15 before the date the enterprise zone designation expires, is no longer
16 binding, or becomes inoperative.

17 (3) "Enterprise zone" means the area designated as an enterprise
18 zone pursuant to Chapter 12.8 (commencing with Section 7070)
19 of Division 7 of Title 1 of the Government Code.

20 (c) If the taxpayer has purchased property upon which a use tax
21 has been paid or incurred, the credit provided by this section shall
22 be allowed only if qualified property of a comparable quality and
23 price is not timely available for purchase in this state.

24 (d) In the case where the credit otherwise allowed under this
25 section exceeds the "tax" for the taxable year, that portion of the
26 credit which exceeds the "tax" may be carried over and added to
27 the credit, if any, in the following year, and succeeding years if
28 necessary, until the credit is exhausted. The credit shall be applied
29 first to the earliest taxable years possible.

30 (e) Any taxpayer who elects to be subject to this section shall
31 not be entitled to increase the basis of the qualified property as
32 otherwise required by Section 164(a) of the Internal Revenue Code
33 with respect to sales or use tax paid or incurred in connection with
34 the taxpayer's purchase of qualified property.

35 (f) (1) The amount of credit otherwise allowed under this
36 section and Section 23622.7, including any credit carryover from
37 prior years, that may reduce the "tax" for the taxable year shall
38 not exceed the amount of tax which would be imposed on the
39 taxpayer's business income attributable to the enterprise zone

1 determined as if that attributable income represented all of the
2 income of the taxpayer subject to tax under this part.

3 (2) Attributable income shall be that portion of the taxpayer's
4 California source business income that is apportioned to the
5 enterprise zone. For that purpose, the taxpayer's business income
6 attributable to sources in this state first shall be determined in
7 accordance with Chapter 17 (commencing with Section 25101).
8 That business income shall be further apportioned to the enterprise
9 zone in accordance with Article 2 (commencing with Section
10 25120) of Chapter 17, modified for purposes of this section in
11 accordance with paragraph (3).

12 (3) Business income shall be apportioned to the enterprise zone
13 by multiplying the total California business income of the taxpayer
14 by a fraction, the numerator of which is the property factor plus
15 the payroll factor, and the denominator of which is two. For
16 purposes of this paragraph:

17 (A) The property factor is a fraction, the numerator of which is
18 the average value of the taxpayer's real and tangible personal
19 property owned or rented and used in the enterprise zone during
20 the taxable year, and the denominator of which is the average value
21 of all the taxpayer's real and tangible personal property owned or
22 rented and used in this state during the taxable year.

23 (B) The payroll factor is a fraction, the numerator of which is
24 the total amount paid by the taxpayer in the enterprise zone during
25 the taxable year for compensation, and the denominator of which
26 is the total compensation paid by the taxpayer in this state during
27 the taxable year.

28 (4) The portion of any credit remaining, if any, after application
29 of this subdivision, shall be carried over to succeeding taxable
30 years, as if it were an amount exceeding the "tax" for the taxable
31 year, as provided in subdivision (d).

32 (g) The amendments made to this section by the act adding this
33 subdivision shall apply to taxable years beginning on or after
34 January 1, 1998.

35 (h) (1) This section shall cease to be operative for taxable years
36 beginning on or after January 1, 2011.

37 (2) In the case of any portion of a credit available for carryover
38 to a taxable year beginning on or after January 1, 2011, under
39 subdivision (d), as that subdivision read prior to the amendments
40 made by the act adding this subdivision, neither that subdivision

1 nor subdivision (f) of Section 23036 shall apply, and those unused
2 credit amounts shall not be carried over to any taxable year
3 beginning on or after January 1, 2011.

4 (i) This section shall be repealed as of December 1, 2011.

5 SEC. 112. Section 23622.7 of the Revenue and Taxation Code
6 is amended to read:

7 23622.7. (a) There shall be allowed a credit against the “tax”
8 (as defined by Section 23036) to a taxpayer who employs a
9 qualified employee in an enterprise zone during the taxable year.
10 The credit shall be equal to the sum of each of the following:

11 (1) Fifty percent of qualified wages in the first year of
12 employment.

13 (2) Forty percent of qualified wages in the second year of
14 employment.

15 (3) Thirty percent of qualified wages in the third year of
16 employment.

17 (4) Twenty percent of qualified wages in the fourth year of
18 employment.

19 (5) Ten percent of qualified wages in the fifth year of
20 employment.

21 (b) For purposes of this section:

22 (1) “Qualified wages” means:

23 (A) (i) Except as provided in clause (ii), that portion of wages
24 paid or incurred by the taxpayer during the taxable year to qualified
25 employees that does not exceed 150 percent of the minimum wage.

26 (ii) For up to 1,350 qualified employees who are employed by
27 the taxpayer in the Long Beach Enterprise Zone in aircraft
28 manufacturing activities described in Codes 3721 to 3728,
29 inclusive, and Code 3812 of the Standard Industrial Classification
30 (SIC) Manual published by the United States Office of
31 Management and Budget, 1987 edition, “qualified wages” means
32 that portion of hourly wages that does not exceed 202 percent of
33 the minimum wage.

34 (B) Wages received during the 60-month period beginning with
35 the first day the employee commences employment with the
36 taxpayer. Reemployment in connection with any increase, including
37 a regularly occurring seasonal increase, in the trade or business
38 operations of the taxpayer does not constitute commencement of
39 employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the enterprise zone designation were still in existence and binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Zone expiration date” means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(4) (A) “Qualified employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer’s trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

1 (III) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was an
3 economically disadvantaged individual 14 years of age or older.

4 (IV) Immediately preceding the qualified employee's
5 commencement of employment with the taxpayer, was a dislocated
6 worker who meets any of the following:

7 (aa) Has been terminated or laid off or who has received a notice
8 of termination or layoff from employment, is eligible for or has
9 exhausted entitlement to unemployment insurance benefits, and
10 is unlikely to return to his or her previous industry or occupation.

11 (bb) Has been terminated or has received a notice of termination
12 of employment as a result of any permanent closure or any
13 substantial layoff at a plant, facility, or enterprise, including an
14 individual who has not received written notification but whose
15 employer has made a public announcement of the closure or layoff.

16 (cc) Is long-term unemployed and has limited opportunities for
17 employment or reemployment in the same or a similar occupation
18 in the area in which the individual resides, including an individual
19 55 years of age or older who may have substantial barriers to
20 employment by reason of age.

21 (dd) Was self-employed (including farmers and ranchers) and
22 is unemployed as a result of general economic conditions in the
23 community in which he or she resides or because of natural
24 disasters.

25 (ee) Was a civilian employee of the Department of Defense
26 employed at a military installation being closed or realigned under
27 the Defense Base Closure and Realignment Act of 1990.

28 (ff) Was an active member of the armed forces or National
29 Guard as of September 30, 1990, and was either involuntarily
30 separated or separated pursuant to a special benefits program.

31 (gg) Is a seasonal or migrant worker who experiences chronic
32 seasonal unemployment and underemployment in the agriculture
33 industry, aggravated by continual advancements in technology and
34 mechanization.

35 (hh) Has been terminated or laid off, or has received a notice
36 of termination or layoff, as a consequence of compliance with the
37 Clean Air Act.

38 (V) Immediately preceding the qualified employee's
39 commencement of employment with the taxpayer, was a disabled
40 individual who is eligible for or enrolled in, or has completed a

1 state rehabilitation plan or is a service-connected disabled veteran,
2 veteran of the Vietnam era, or veteran who is recently separated
3 from military service.

4 (VI) Immediately preceding the qualified employee's
5 commencement of employment with the taxpayer, was an
6 ex-offender. An individual shall be treated as convicted if he or
7 she was placed on probation by a state court without a finding of
8 guilt.

9 (VII) Immediately preceding the qualified employee's
10 commencement of employment with the taxpayer, was a person
11 eligible for or a recipient of any of the following:

12 (aa) Federal Supplemental Security Income benefits.

13 (bb) Aid to Families with Dependent Children.

14 (cc) Food stamps.

15 (dd) State and local general assistance.

16 (VIII) Immediately preceding the qualified employee's
17 commencement of employment with the taxpayer, was a member
18 of a federally recognized Indian tribe, band, or other group of
19 Native American descent.

20 (IX) Immediately preceding the qualified employee's
21 commencement of employment with the taxpayer, was a resident
22 of a targeted employment area (as defined in Section 7072 of the
23 Government Code).

24 (X) An employee who qualified the taxpayer for the enterprise
25 zone hiring credit under former Section 23622 or the program area
26 hiring credit under former Section 23623.

27 (XI) Immediately preceding the qualified employee's
28 commencement of employment with the taxpayer, was a member
29 of a targeted group, as defined in Section 51(d) of the Internal
30 Revenue Code, or its successor.

31 (B) Priority for employment shall be provided to an individual
32 who is enrolled in a qualified program under the federal Job
33 Training Partnership Act or the Greater Avenues for Independence
34 Act of 1985 or who is eligible as a member of a targeted group
35 under the Work Opportunity Tax Credit (Section 51 of the Internal
36 Revenue Code), or its successor.

37 (5) "Taxpayer" means a corporation engaged in a trade or
38 business within an enterprise zone designated pursuant to Chapter
39 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
40 the Government Code.

1 (6) “Seasonal employment” means employment by a taxpayer
2 that has regular and predictable substantial reductions in trade or
3 business operations.

4 (c) The taxpayer shall do both of the following:

5 (1) Obtain from the Employment Development Department, as
6 permitted by federal law, the local county or city Job Training
7 Partnership Act administrative entity, the local county GAIN office
8 or social services agency, or the local government administering
9 the enterprise zone, a certification that provides that a qualified
10 employee meets the eligibility requirements specified in clause
11 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
12 Employment Development Department may provide preliminary
13 screening and referral to a certifying agency. The Employment
14 Development Department shall develop a form for this purpose.
15 The Department of Housing and Community Development shall
16 develop regulations governing the issuance of certificates by local
17 governments pursuant to subdivision (a) of Section 7086 of the
18 Government Code.

19 (2) Retain a copy of the certification and provide it upon request
20 to the Franchise Tax Board.

21 (d) (1) For purposes of this section:

22 (A) All employees of all corporations which are members of
23 the same controlled group of corporations shall be treated as
24 employed by a single taxpayer.

25 (B) The credit, if any, allowable by this section to each member
26 shall be determined by reference to its proportionate share of the
27 expense of the qualified wages giving rise to the credit, and shall
28 be allocated in that manner.

29 (C) For purposes of this subdivision, “controlled group of
30 corporations” means “controlled group of corporations” as defined
31 in Section 1563(a) of the Internal Revenue Code, except that:

32 (i) “More than 50 percent” shall be substituted for “at least 80
33 percent” each place it appears in Section 1563(a)(1) of the Internal
34 Revenue Code.

35 (ii) The determination shall be made without regard to
36 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
37 Revenue Code.

38 (2) If an employer acquires the major portion of a trade or
39 business of another employer (hereinafter in this paragraph referred
40 to as the “predecessor”) or the major portion of a separate unit of

1 a trade or business of a predecessor, then, for purposes of applying
2 this section (other than subdivision (e)) for any calendar year
3 ending after that acquisition, the employment relationship between
4 a qualified employee and an employer shall not be treated as
5 terminated if the employee continues to be employed in that trade
6 or business.

7 (e) (1) (A) If the employment, other than seasonal employment,
8 of any qualified employee with respect to whom qualified wages
9 are taken into account under subdivision (a) is terminated by the
10 taxpayer at any time during the first 270 days of that employment,
11 whether or not consecutive, or before the close of the 270th
12 calendar day after the day in which that employee completes 90
13 days of employment with the taxpayer, the tax imposed by this
14 part for the taxable year in which that employment is terminated
15 shall be increased by an amount equal to the credit allowed under
16 subdivision (a) for that taxable year and all prior taxable years
17 attributable to qualified wages paid or incurred with respect to that
18 employee.

19 (B) If the seasonal employment of any qualified employee, with
20 respect to whom qualified wages are taken into account under
21 subdivision (a) is not continued by the taxpayer for a period of
22 270 days of employment during the 60-month period beginning
23 with the day the qualified employee commences seasonal
24 employment with the taxpayer, the tax imposed by this part, for
25 the taxable year that includes the 60th month following the month
26 in which the qualified employee commences seasonal employment
27 with the taxpayer, shall be increased by an amount equal to the
28 credit allowed under subdivision (a) for that taxable year and all
29 prior taxable years attributable to qualified wages paid or incurred
30 with respect to that qualified employee.

31 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
32 any of the following:

33 (i) A termination of employment of a qualified employee who
34 voluntarily leaves the employment of the taxpayer.

35 (ii) A termination of employment of a qualified employee who,
36 before the close of the period referred to in subparagraph (A) of
37 paragraph (1), becomes disabled and unable to perform the services
38 of that employment, unless that disability is removed before the
39 close of that period and the taxpayer fails to offer reemployment
40 to that employee.

1 (iii) A termination of employment of a qualified employee, if
2 it is determined that the termination was due to the misconduct (as
3 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
4 the California Code of Regulations) of that employee.

5 (iv) A termination of employment of a qualified employee due
6 to a substantial reduction in the trade or business operations of the
7 taxpayer.

8 (v) A termination of employment of a qualified employee, if
9 that employee is replaced by other qualified employees so as to
10 create a net increase in both the number of employees and the
11 hours of employment.

12 (B) Subparagraph (B) of paragraph (1) shall not apply to any
13 of the following:

14 (i) A failure to continue the seasonal employment of a qualified
15 employee who voluntarily fails to return to the seasonal
16 employment of the taxpayer.

17 (ii) A failure to continue the seasonal employment of a qualified
18 employee who, before the close of the period referred to in
19 subparagraph (B) of paragraph (1), becomes disabled and unable
20 to perform the services of that seasonal employment, unless that
21 disability is removed before the close of that period and the
22 taxpayer fails to offer seasonal employment to that qualified
23 employee.

24 (iii) A failure to continue the seasonal employment of a qualified
25 employee, if it is determined that the failure to continue the
26 seasonal employment was due to the misconduct (as defined in
27 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
28 Code of Regulations) of that qualified employee.

29 (iv) A failure to continue seasonal employment of a qualified
30 employee due to a substantial reduction in the regular seasonal
31 trade or business operations of the taxpayer.

32 (v) A failure to continue the seasonal employment of a qualified
33 employee, if that qualified employee is replaced by other qualified
34 employees so as to create a net increase in both the number of
35 seasonal employees and the hours of seasonal employment.

36 (C) For purposes of paragraph (1), the employment relationship
37 between the taxpayer and a qualified employee shall not be treated
38 as terminated by either of the following:

1 (i) By a transaction to which Section 381(a) of the Internal
2 Revenue Code applies, if the qualified employee continues to be
3 employed by the acquiring corporation.

4 (ii) By reason of a mere change in the form of conducting the
5 trade or business of the taxpayer, if the qualified employee
6 continues to be employed in that trade or business and the taxpayer
7 retains a substantial interest in that trade or business.

8 (3) Any increase in tax under paragraph (1) shall not be treated
9 as tax imposed by this part for purposes of determining the amount
10 of any credit allowable under this part.

11 (f) Rules similar to the rules provided in Section 46(e) and (h)
12 of the Internal Revenue Code shall apply to both of the following:

13 (1) An organization to which Section 593 of the Internal
14 Revenue Code applies.

15 (2) A regulated investment company or a real estate investment
16 trust subject to taxation under this part.

17 (g) For purposes of this section, “enterprise zone” means an
18 area designated as an enterprise zone pursuant to Chapter 12.8
19 (commencing with Section 7070) of Division 7 of Title 1 of the
20 Government Code.

21 (h) The credit allowable under this section shall be reduced by
22 the credit allowed under Sections 23623.5, 23625, and 23646
23 claimed for the same employee. The credit shall also be reduced
24 by the federal credit allowed under Section 51 of the Internal
25 Revenue Code.

26 In addition, any deduction otherwise allowed under this part for
27 the wages or salaries paid or incurred by the taxpayer upon which
28 the credit is based shall be reduced by the amount of the credit,
29 prior to any reduction required by subdivision (i) or (j).

30 (i) In the case where the credit otherwise allowed under this
31 section exceeds the “tax” for the taxable year, that portion of the
32 credit that exceeds the “tax” may be carried over and added to the
33 credit, if any, in succeeding taxable years, until the credit is
34 exhausted. The credit shall be applied first to the earliest taxable
35 years possible.

36 (j) (1) The amount of the credit otherwise allowed under this
37 section and Section 23612.2, including any credit carryover from
38 prior years, that may reduce the “tax” for the taxable year shall
39 not exceed the amount of tax which would be imposed on the
40 taxpayer’s business income attributable to the enterprise zone

1 determined as if that attributable income represented all of the
2 income of the taxpayer subject to tax under this part.

3 (2) Attributable income shall be that portion of the taxpayer's
4 California source business income that is apportioned to the
5 enterprise zone. For that purpose, the taxpayer's business
6 attributable to sources in this state first shall be determined in
7 accordance with Chapter 17 (commencing with Section 25101).
8 That business income shall be further apportioned to the enterprise
9 zone in accordance with Article 2 (commencing with Section
10 25120) of Chapter 17, modified for purposes of this section in
11 accordance with paragraph (3).

12 (3) Business income shall be apportioned to the enterprise zone
13 by multiplying the total California business income of the taxpayer
14 by a fraction, the numerator of which is the property factor plus
15 the payroll factor, and the denominator of which is two. For
16 purposes of this paragraph:

17 (A) The property factor is a fraction, the numerator of which is
18 the average value of the taxpayer's real and tangible personal
19 property owned or rented and used in the enterprise zone during
20 the income year, and the denominator of which is the average value
21 of all the taxpayer's real and tangible personal property owned or
22 rented and used in this state during the income year.

23 (B) The payroll factor is a fraction, the numerator of which is
24 the total amount paid by the taxpayer in the enterprise zone during
25 the income year for compensation, and the denominator of which
26 is the total compensation paid by the taxpayer in this state during
27 the income year.

28 (4) The portion of any credit remaining, if any, after application
29 of this subdivision, shall be carried over to succeeding taxable
30 years, as if it were an amount exceeding the "tax" for the taxable
31 year, as provided in subdivision (i).

32 (k) The changes made to this section by the act adding this
33 subdivision shall apply to taxable years on or after January 1, 1997.

34 (l) (1) This section shall cease to be operative for taxable years
35 beginning on or after January 1, 2011.

36 (2) In the case of any portion of a credit available for carryover
37 to a taxable year beginning on or after January 1, 2011, under
38 subdivision (i), as that subdivision read prior to the amendments
39 made by the act adding this subdivision, neither that subdivision
40 nor subdivision (f) of Section 23036 shall apply, and those unused

1 credit amounts shall not be carried over to any taxable year
2 beginning on or after January 1, 2011.

3 (m) This section shall be repealed as of December 1, 2011.

4 SEC. 113. Section 23622.8 of the Revenue and Taxation Code
5 is amended to read:

6 23622.8. (a) For each taxable year beginning on or after
7 January 1, 1998, there shall be allowed a credit against the “tax”
8 (as defined in Section 23036) to a qualified taxpayer for hiring a
9 qualified disadvantaged individual during the taxable year for
10 employment in the manufacturing enhancement area. The credit
11 shall be equal to the sum of each of the following:

12 (1) Fifty percent of the qualified wages in the first year of
13 employment.

14 (2) Forty percent of the qualified wages in the second year of
15 employment.

16 (3) Thirty percent of the qualified wages in the third year of
17 employment.

18 (4) Twenty percent of the qualified wages in the fourth year of
19 employment.

20 (5) Ten percent of the qualified wages in the fifth year of
21 employment.

22 (b) For purposes of this section:

23 (1) “Qualified wages” means:

24 (A) That portion of wages paid or incurred by the qualified
25 taxpayer during the taxable year to qualified disadvantaged
26 individuals that does not exceed 150 percent of the minimum wage.

27 (B) The total amount of qualified wages which may be taken
28 into account for purposes of claiming the credit allowed under this
29 section shall not exceed two million dollars (\$2,000,000) per
30 taxable year.

31 (C) Wages received during the 60-month period beginning with
32 the first day the qualified disadvantaged individual commences
33 employment with the qualified taxpayer. Reemployment in
34 connection with any increase, including a regularly occurring
35 seasonal increase, in the trade or business operations of the
36 qualified taxpayer does not constitute commencement of
37 employment for purposes of this section.

38 (D) Qualified wages do not include any wages paid or incurred
39 by the qualified taxpayer on or after the manufacturing
40 enhancement area expiration date. However, wages paid or incurred

1 with respect to qualified employees who are employed by the
2 qualified taxpayer within the manufacturing enhancement area
3 within the 60-month period prior to the manufacturing enhancement
4 area expiration date shall continue to qualify for the credit under
5 this section after the manufacturing enhancement area expiration
6 date, in accordance with all provisions of this section applied as
7 if the manufacturing enhancement area designation were still in
8 existence and binding.

9 (2) “Minimum wage” means the wage established by the
10 Industrial Welfare Commission as provided for in Chapter 1
11 (commencing with Section 1171) of Part 4 of Division 2 of the
12 Labor Code.

13 (3) “Manufacturing enhancement area” means an area designated
14 pursuant to Section 7073.8 of the Government Code according to
15 the procedures of Chapter 12.8 (commencing with Section 7070)
16 of Division 7 of Title 1 of the Government Code.

17 (4) “Manufacturing enhancement area expiration date” means
18 the date the manufacturing enhancement area designation expires,
19 is no longer binding, or becomes inoperative.

20 (5) “Qualified disadvantaged individual” means an individual
21 who satisfies all of the following requirements:

22 (A) (i) At least 90 percent of whose services for the qualified
23 taxpayer during the taxable year are directly related to the conduct
24 of the qualified taxpayer’s trade or business located in a
25 manufacturing enhancement area.

26 (ii) Who performs at least 50 percent of his or her services for
27 the qualified taxpayer during the taxable year in the manufacturing
28 enhancement area.

29 (B) Who is hired by the qualified taxpayer after the designation
30 of the area as a manufacturing enhancement area in which the
31 individual’s services were primarily performed.

32 (C) Who is any of the following immediately preceding the
33 individual’s commencement of employment with the qualified
34 taxpayer:

35 (i) An individual who has been determined eligible for services
36 under the federal Job Training Partnership Act (29 U.S.C. Sec.
37 1501 et seq.) or its successor.

38 (ii) Any voluntary or mandatory registrant under the Greater
39 Avenues for Independence Act of 1985, or its successor, as
40 provided pursuant to Article 3.2 (commencing with Section 11320)

1 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
2 Code.

3 (iii) Any individual who has been certified eligible by the
4 Employment Development Department under the federal Targeted
5 Jobs Tax Credit Program, or its successor, whether or not this
6 program is in effect.

7 (6) "Qualified taxpayer" means any corporation engaged in a
8 trade or business within a manufacturing enhancement area
9 designated pursuant to Section 7073.8 of the Government Code
10 and that meets all of the following requirements:

11 (A) Is engaged in those lines of business described in Codes
12 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
13 inclusive, of the Standard Industrial Classification (SIC) Manual
14 published by the United States Office of Management and Budget,
15 1987 edition.

16 (B) At least 50 percent of the qualified taxpayer's workforce
17 hired after the designation of the manufacturing enhancement area
18 is composed of individuals who, at the time of hire, are residents
19 of the county in which the manufacturing enhancement area is
20 located.

21 (C) Of this percentage of local hires, at least 30 percent shall
22 be qualified disadvantaged individuals.

23 (7) "Seasonal employment" means employment by a qualified
24 taxpayer that has regular and predictable substantial reductions in
25 trade or business operations.

26 (c) (1) For purposes of this section, all of the following apply:

27 (A) All employees of all corporations that are members of the
28 same controlled group of corporations shall be treated as employed
29 by a single qualified taxpayer.

30 (B) The credit (if any) allowable by this section with respect to
31 each member shall be determined by reference to its proportionate
32 share of the expenses of the qualified wages giving rise to the
33 credit and shall be allocated in that manner.

34 (C) Principles that apply in the case of controlled groups of
35 corporations, as specified in subdivision (d) of Section 23622.7,
36 shall apply with respect to determining employment.

37 (2) If a qualified taxpayer acquires the major portion of a trade
38 or business of another employer (hereinafter in this paragraph
39 referred to as the "predecessor") or the major portion of a separate
40 unit of a trade or business of a predecessor, then, for purposes of

1 applying this section (other than subdivision (d)) for any calendar
2 year ending after that acquisition, the employment relationship
3 between a qualified disadvantaged individual and a qualified
4 taxpayer shall not be treated as terminated if the qualified
5 disadvantaged individual continues to be employed in that trade
6 or business.

7 (d) (1) (A) If the employment, other than seasonal employment,
8 of any qualified disadvantaged individual, with respect to whom
9 qualified wages are taken into account under subdivision (b) is
10 terminated by the qualified taxpayer at any time during the first
11 270 days of that employment (whether or not consecutive) or before
12 the close of the 270th calendar day after the day in which that
13 qualified disadvantaged individual completes 90 days of
14 employment with the qualified taxpayer, the tax imposed by this
15 part for the taxable year in which that employment is terminated
16 shall be increased by an amount equal to the credit allowed under
17 subdivision (a) for that taxable year and all prior taxable years
18 attributable to qualified wages paid or incurred with respect to that
19 qualified disadvantaged individual.

20 (B) If the seasonal employment of any qualified disadvantaged
21 individual, with respect to whom qualified wages are taken into
22 account under subdivision (a) is not continued by the qualified
23 taxpayer for a period of 270 days of employment during the
24 60-month period beginning with the day the qualified
25 disadvantaged individual commences seasonal employment with
26 the qualified taxpayer, the tax imposed by this part, for the income
27 year that includes the 60th month following the month in which
28 the qualified disadvantaged individual commences seasonal
29 employment with the qualified taxpayer, shall be increased by an
30 amount equal to the credit allowed under subdivision (a) for that
31 taxable year and all prior taxable years attributable to qualified
32 wages paid or incurred with respect to that qualified disadvantaged
33 individual.

34 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
35 any of the following:

36 (i) A termination of employment of a qualified disadvantaged
37 individual who voluntarily leaves the employment of the qualified
38 taxpayer.

39 (ii) A termination of employment of a qualified disadvantaged
40 individual who, before the close of the period referred to in

1 subparagraph (A) of paragraph (1), becomes disabled to perform
2 the services of that employment, unless that disability is removed
3 before the close of that period and the qualified taxpayer fails to
4 offer reemployment to that individual.

5 (iii) A termination of employment of a qualified disadvantaged
6 individual, if it is determined that the termination was due to the
7 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,
8 of Title 22 of the California Code of Regulations) of that individual.

9 (iv) A termination of employment of a qualified disadvantaged
10 individual due to a substantial reduction in the trade or business
11 operations of the qualified taxpayer.

12 (v) A termination of employment of a qualified disadvantaged
13 individual, if that individual is replaced by other qualified
14 disadvantaged individuals so as to create a net increase in both the
15 number of employees and the hours of employment.

16 (B) Subparagraph (B) of paragraph (1) shall not apply to any
17 of the following:

18 (i) A failure to continue the seasonal employment of a qualified
19 disadvantaged individual who voluntarily fails to return to the
20 seasonal employment of the qualified taxpayer.

21 (ii) A failure to continue the seasonal employment of a qualified
22 disadvantaged individual who, before the close of the period
23 referred to in subparagraph (B) of paragraph (1), becomes disabled
24 and unable to perform the services of that seasonal employment,
25 unless that disability is removed before the close of that period
26 and the qualified taxpayer fails to offer seasonal employment to
27 that qualified disadvantaged individual.

28 (iii) A failure to continue the seasonal employment of a qualified
29 disadvantaged individual, if it is determined that the failure to
30 continue the seasonal employment was due to the misconduct (as
31 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
32 the California Code of Regulations) of that qualified disadvantaged
33 individual.

34 (iv) A failure to continue seasonal employment of a qualified
35 disadvantaged individual due to a substantial reduction in the
36 regular seasonal trade or business operations of the qualified
37 taxpayer.

38 (v) A failure to continue the seasonal employment of a qualified
39 disadvantaged individual, if that qualified disadvantaged individual
40 is replaced by other qualified disadvantaged individuals so as to

1 create a net increase in both the number of seasonal employees
2 and the hours of seasonal employment.

3 (C) For purposes of paragraph (1), the employment relationship
4 between the qualified taxpayer and a qualified disadvantaged
5 individual shall not be treated as terminated by either of the
6 following:

7 (i) By a transaction to which Section 381(a) of the Internal
8 Revenue Code applies, if the qualified disadvantaged individual
9 continues to be employed by the acquiring corporation.

10 (ii) By reason of a mere change in the form of conducting the
11 trade or business of the qualified taxpayer, if the qualified
12 disadvantaged individual continues to be employed in that trade
13 or business and the qualified taxpayer retains a substantial interest
14 in that trade or business.

15 (3) Any increase in tax under paragraph (1) shall not be treated
16 as tax imposed by this part for purposes of determining the amount
17 of any credit allowable under this part.

18 (e) The credit shall be reduced by the credit allowed under
19 Section 23621. The credit shall also be reduced by the federal
20 credit allowed under Section 51 of the Internal Revenue Code.

21 In addition, any deduction otherwise allowed under this part for
22 the wages or salaries paid or incurred by the qualified taxpayer
23 upon which the credit is based shall be reduced by the amount of
24 the credit, prior to any reduction required by subdivision (f) or (g).

25 (f) In the case where the credit otherwise allowed under this
26 section exceeds the “tax” for the taxable year, that portion of the
27 credit that exceeds the “tax” may be carried over and added to the
28 credit, if any, in succeeding years, until the credit is exhausted.
29 The credit shall be applied first to the earliest taxable years
30 possible.

31 (g) (1) The amount of credit otherwise allowed under this
32 section, including prior year credit carryovers, that may reduce
33 the “tax” for the taxable year shall not exceed the amount of tax
34 that would be imposed on the qualified taxpayer’s business income
35 attributed to a manufacturing enhancement area determined as if
36 that attributed income represented all of the net income of the
37 qualified taxpayer subject to tax under this part.

38 (2) Attributable income is that portion of the taxpayer’s
39 California source business income that is apportioned to the
40 manufacturing enhancement area. For that purpose, the taxpayer’s

1 business income attributable to sources in this state first shall be
2 determined in accordance with Chapter 17 (commencing with
3 Section 25101). That business income shall be further apportioned
4 to the manufacturing enhancement area in accordance with Article
5 2 (commencing with Section 25120) of Chapter 17, modified for
6 purposes of this section in accordance with paragraph (3).

7 (3) Income shall be apportioned to a manufacturing enhancement
8 area by multiplying the total California business income of the
9 taxpayer by a fraction, the numerator of which is the property
10 factor plus the payroll factor, and the denominator of which is two.
11 For the purposes of this paragraph:

12 (A) The property factor is a fraction, the numerator of which is
13 the average value of the taxpayer's real and tangible personal
14 property owned or rented and used in the manufacturing
15 enhancement area during the taxable year, and the denominator
16 of which is the average value of all the taxpayer's real and tangible
17 personal property owned or rented and used in this state during
18 the taxable year.

19 (B) The payroll factor is a fraction, the numerator of which is
20 the total amount paid by the taxpayer in the manufacturing
21 enhancement area during the taxable year for compensation, and
22 the denominator of which is the total compensation paid by the
23 taxpayer in this state during the taxable year.

24 (4) The portion of any credit remaining, if any, after application
25 of this subdivision, shall be carried over to succeeding taxable
26 years, as if it were an amount exceeding the "tax" for the taxable
27 year, as provided in subdivision (g).

28 (h) If the taxpayer is allowed a credit pursuant to this section
29 for qualified wages paid or incurred, only one credit shall be
30 allowed to the taxpayer under this part with respect to any wage
31 consisting in whole or in part of those qualified wages.

32 (i) The qualified taxpayer shall do both of the following:

33 (1) Obtain from the Employment Development Department, as
34 permitted by federal law, the local county or city Job Training
35 Partnership Act administrative entity, the local county GAIN office
36 or social services agency, or the local government administering
37 the manufacturing enhancement area, a certification that provides
38 that a qualified disadvantaged individual meets the eligibility
39 requirements specified in paragraph (5) of subdivision (b). The
40 Employment Development Department may provide preliminary

1 screening and referral to a certifying agency. The Department of
2 Housing and Community Development shall develop regulations
3 governing the issuance of certificates pursuant to subdivision (d)
4 of Section 7086 of the Government Code and shall develop forms
5 for this purpose.

6 (2) Retain a copy of the certification and provide it upon request
7 to the Franchise Tax Board.

8 (j) (1) This section shall cease to be operative for taxable years
9 beginning on or after January 1, 2011.

10 (2) In the case of any portion of a credit available for carryover
11 to a taxable year beginning on or after January 1, 2011, under
12 subdivision (f), as that subdivision read prior to the amendments
13 made by the act adding this subdivision, neither that subdivision
14 nor subdivision (f) of Section 23036 shall apply, and those unused
15 credit amounts shall not be carried over to any taxable year
16 beginning on or after January 1, 2011.

17 (k) This section shall be repealed as of December 1, 2011.

18 SEC. 114. Section 23633 of the Revenue and Taxation Code
19 is amended to read:

20 23633. (a) For each taxable year beginning on or after January
21 1, 1998, there shall be allowed as a credit against the “tax” (as
22 defined by Section 23036) for the taxable year an amount equal
23 to the sales or use tax paid or incurred during the taxable year by
24 the qualified taxpayer in connection with the qualified taxpayer’s
25 purchase of qualified property.

26 (b) For purposes of this section:

27 (1) “Qualified property” means property that meets all of the
28 following requirements:

29 (A) Is any of the following:

30 (i) Machinery and machinery parts used for fabricating,
31 processing, assembling, and manufacturing.

32 (ii) Machinery and machinery parts used for the production of
33 renewable energy resources.

34 (iii) Machinery and machinery parts used for either of the
35 following:

36 (I) Air pollution control mechanisms.

37 (II) Water pollution control mechanisms.

38 (iv) Data-processing and communications equipment, such as
39 computers, computer-automated drafting systems, copy machines,
40 telephone systems, and faxes.

1 (v) Motion picture manufacturing equipment central to
2 production and post production, such as cameras, audio recorders,
3 and digital image and sound processing equipment.

4 (B) The total cost of qualified property purchased and placed
5 in service in any taxable year that may be taken into account by
6 any qualified taxpayer for purposes of claiming this credit shall
7 not exceed twenty million dollars (\$20,000,000).

8 (C) The qualified property is used by the qualified taxpayer
9 exclusively in a targeted tax area.

10 (D) The qualified property is purchased and placed in service
11 before the date the targeted tax area designation expires, is revoked,
12 is no longer binding, or becomes inoperative.

13 (2) (A) “Qualified taxpayer” means a corporation that meets
14 both of the following:

15 (i) Is engaged in a trade or business within a targeted tax area
16 designated pursuant to Chapter 12.93 (commencing with Section
17 7097) of Division 7 of Title 1 of the Government Code.

18 (ii) Is engaged in those lines of business described in Codes
19 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
20 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
21 of the Standard Industrial Classification (SIC) Manual published
22 by the United States Office of Management and Budget, 1987
23 edition.

24 (B) In the case of any pass-through entity, the determination of
25 whether a taxpayer is a qualified taxpayer under this section shall
26 be made at the entity level and any credit under this section or
27 Section 17053.33 shall be allowed to the pass-through entity and
28 passed through to the partners or shareholders in accordance with
29 applicable provisions of this part or Part 10 (commencing with
30 Section 17001). For purposes of this subparagraph, the term
31 “pass-through entity” means any partnership or S corporation.

32 (3) “Targeted tax area” means the area designated pursuant to
33 Chapter 12.93 (commencing with Section 7097) of Division 7 of
34 Title 1 of the Government Code.

35 (c) If the qualified taxpayer is allowed a credit for qualified
36 property pursuant to this section, only one credit shall be allowed
37 to the taxpayer under this part with respect to that qualified
38 property.

39 (d) If the qualified taxpayer has purchased property upon which
40 a use tax has been paid or incurred, the credit provided by this

1 section shall be allowed only if qualified property of a comparable
2 quality and price is not timely available for purchase in this state.

3 (e) In the case where the credit otherwise allowed under this
4 section exceeds the “tax” for the taxable year, that portion of the
5 credit that exceeds the “tax” may be carried over and added to the
6 credit, if any, in the following year, and succeeding years if
7 necessary, until the credit is exhausted. The credit shall be applied
8 first to the earliest taxable years possible.

9 (f) Any qualified taxpayer who elects to be subject to this section
10 shall not be entitled to increase the basis of the qualified property
11 as otherwise required by Section 164(a) of the Internal Revenue
12 Code with respect to sales or use tax paid or incurred in connection
13 with the qualified taxpayer’s purchase of qualified property.

14 (g) (1) The amount of credit otherwise allowed under this
15 section and Section 23634, including any credit carryover from
16 prior years, that may reduce the “tax” for the taxable year shall
17 not exceed the amount of tax that would be imposed on the
18 qualified taxpayer’s business income attributable to the targeted
19 tax area determined as if that attributable income represented all
20 of the income of the qualified taxpayer subject to tax under this
21 part.

22 (2) Attributable income shall be that portion of the taxpayer’s
23 California source business income that is apportioned to the
24 targeted tax area. For that purpose, the taxpayer’s business income
25 attributable to sources in this state first shall be determined in
26 accordance with Chapter 17 (commencing with Section 25101).
27 That business income shall be further apportioned to the targeted
28 tax area in accordance with Article 2 (commencing with Section
29 25120) of Chapter 17, modified for purposes of this section in
30 accordance with paragraph (3).

31 (3) Business income shall be apportioned to the targeted tax
32 area by multiplying the total California business income of the
33 taxpayer by a fraction, the numerator of which is the property
34 factor plus the payroll factor, and the denominator of which is two.
35 For purposes of this paragraph:

36 (A) The property factor is a fraction, the numerator of which is
37 the average value of the taxpayer’s real and tangible personal
38 property owned or rented and used in the targeted tax area during
39 the taxable year and the denominator of which is the average value

1 of all the taxpayer's real and tangible personal property owned or
2 rented and used in this state during the taxable year.

3 (B) The payroll factor is a fraction, the numerator of which is
4 the total amount paid by the taxpayer in the targeted tax area during
5 the taxable year for compensation, and the denominator of which
6 is the total compensation paid by the taxpayer in this state during
7 the taxable year.

8 (4) The portion of any credit remaining, if any, after application
9 of this subdivision, shall be carried over to succeeding taxable
10 years, as if it were an amount exceeding the "tax" for the taxable
11 year, as provided in subdivision (e).

12 (5) In the event that a credit carryover is allowable under
13 subdivision (e) for any taxable year after the targeted tax area
14 designation has expired, has been revoked, is no longer binding,
15 or has become inoperative, the targeted tax area shall be deemed
16 to remain in existence for purposes of computing the limitation
17 specified in this subdivision.

18 (h) The changes made to this section by the act adding this
19 subdivision shall apply to taxable years beginning on or after
20 January 1, 1998.

21 (i) (1) This section shall cease to be operative for taxable years
22 beginning on or after January 1, 2011.

23 (2) In the case of any portion of a credit available for carryover
24 to a taxable year beginning on or after January 1, 2011, under
25 subdivision (e), as that subdivision read prior to the amendments
26 made by the act adding this subdivision, neither that subdivision
27 nor subdivision (f) of Section 23036 shall apply, and those unused
28 credit amounts shall not be carried over to any taxable year
29 beginning on or after January 1, 2011.

30 (j) This section shall be repealed as of December 1, 2011.

31 SEC. 115. Section 23634 of the Revenue and Taxation Code
32 is amended to read:

33 23634. (a) For each taxable year beginning on or after January
34 1, 1998, there shall be allowed a credit against the "tax" (as defined
35 by Section 23036) to a qualified taxpayer who employs a qualified
36 employee in a targeted tax area during the taxable year. The credit
37 shall be equal to the sum of each of the following:

38 (1) Fifty percent of qualified wages in the first year of
39 employment.

1 (2) Forty percent of qualified wages in the second year of
2 employment.

3 (3) Thirty percent of qualified wages in the third year of
4 employment.

5 (4) Twenty percent of qualified wages in the fourth year of
6 employment.

7 (5) Ten percent of qualified wages in the fifth year of
8 employment.

9 (b) For purposes of this section:

10 (1) “Qualified wages” means:

11 (A) That portion of wages paid or incurred by the qualified
12 taxpayer during the taxable year to qualified employees that does
13 not exceed 150 percent of the minimum wage.

14 (B) Wages received during the 60-month period beginning with
15 the first day the employee commences employment with the
16 qualified taxpayer. Reemployment in connection with any increase,
17 including a regularly occurring seasonal increase, in the trade or
18 business operations of the qualified taxpayer does not constitute
19 commencement of employment for purposes of this section.

20 (C) Qualified wages do not include any wages paid or incurred
21 by the qualified taxpayer on or after the targeted tax area expiration
22 date. However, wages paid or incurred with respect to qualified
23 employees who are employed by the qualified taxpayer within the
24 targeted tax area within the 60-month period prior to the targeted
25 tax area expiration date shall continue to qualify for the credit
26 under this section after the targeted tax area expiration date, in
27 accordance with all provisions of this section applied as if the
28 targeted tax area designation were still in existence and binding.

29 (2) “Minimum wage” means the wage established by the
30 Industrial Welfare Commission as provided for in Chapter 1
31 (commencing with Section 1171) of Part 4 of Division 2 of the
32 Labor Code.

33 (3) “Targeted tax area expiration date” means the date the
34 targeted tax area designation expires, is revoked, is no longer
35 binding, or becomes inoperative.

36 (4) (A) “Qualified employee” means an individual who meets
37 all of the following requirements:

38 (i) At least 90 percent of his or her services for the qualified
39 taxpayer during the taxable year are directly related to the conduct

1 of the qualified taxpayer's trade or business located in a targeted
2 tax area.

3 (ii) Performs at least 50 percent of his or her services for the
4 qualified taxpayer during the taxable year in a targeted tax area.

5 (iii) Is hired by the qualified taxpayer after the date of original
6 designation of the area in which services were performed as a
7 targeted tax area.

8 (iv) Is any of the following:

9 (I) Immediately preceding the qualified employee's
10 commencement of employment with the qualified taxpayer, was
11 a person eligible for services under the federal Job Training
12 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
13 who is receiving, or is eligible to receive, subsidized employment,
14 training, or services funded by the federal Job Training Partnership
15 Act, or its successor.

16 (II) Immediately preceding the qualified employee's
17 commencement of employment with the qualified taxpayer, was
18 a person eligible to be a voluntary or mandatory registrant under
19 the Greater Avenues for Independence Act of 1985 (GAIN)
20 provided for pursuant to Article 3.2 (commencing with Section
21 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
22 Institutions Code, or its successor.

23 (III) Immediately preceding the qualified employee's
24 commencement of employment with the qualified taxpayer, was
25 an economically disadvantaged individual 14 years of age or older.

26 (IV) Immediately preceding the qualified employee's
27 commencement of employment with the qualified taxpayer, was
28 a dislocated worker who meets any of the following:

29 (aa) Has been terminated or laid off or who has received a notice
30 of termination or layoff from employment, is eligible for or has
31 exhausted entitlement to unemployment insurance benefits, and
32 is unlikely to return to his or her previous industry or occupation.

33 (bb) Has been terminated or has received a notice of termination
34 of employment as a result of any permanent closure or any
35 substantial layoff at a plant, facility, or enterprise, including an
36 individual who has not received written notification but whose
37 employer has made a public announcement of the closure or layoff.

38 (cc) Is long-term unemployed and has limited opportunities for
39 employment or reemployment in the same or a similar occupation
40 in the area in which the individual resides, including an individual

1 55 years of age or older who may have substantial barriers to
2 employment by reason of age.

3 (dd) Was self-employed (including farmers and ranchers) and
4 is unemployed as a result of general economic conditions in the
5 community in which he or she resides or because of natural
6 disasters.

7 (ee) Was a civilian employee of the Department of Defense
8 employed at a military installation being closed or realigned under
9 the Defense Base Closure and Realignment Act of 1990.

10 (ff) Was an active member of the Armed Forces or National
11 Guard as of September 30, 1990, and was either involuntarily
12 separated or separated pursuant to a special benefits program.

13 (gg) Is a seasonal or migrant worker who experiences chronic
14 seasonal unemployment and underemployment in the agriculture
15 industry, aggravated by continual advancements in technology and
16 mechanization.

17 (hh) Has been terminated or laid off, or has received a notice
18 of termination or layoff, as a consequence of compliance with the
19 Clean Air Act.

20 (V) Immediately preceding the qualified employee's
21 commencement of employment with the qualified taxpayer, was
22 a disabled individual who is eligible for or enrolled in, or has
23 completed a state rehabilitation plan or is a service-connected
24 disabled veteran, veteran of the Vietnam era, or veteran who is
25 recently separated from military service.

26 (VI) Immediately preceding the qualified employee's
27 commencement of employment with the qualified taxpayer, was
28 an ex-offender. An individual shall be treated as convicted if he
29 or she was placed on probation by a state court without a finding
30 of guilt.

31 (VII) Immediately preceding the qualified employee's
32 commencement of employment with the qualified taxpayer, was
33 a person eligible for or a recipient of any of the following:

34 (aa) Federal Supplemental Security Income benefits.

35 (bb) Aid to Families with Dependent Children.

36 (cc) Food stamps.

37 (dd) State and local general assistance.

38 (VIII) Immediately preceding the qualified employee's
39 commencement of employment with the qualified taxpayer, was

1 a member of a federally recognized Indian tribe, band, or other
2 group of Native American descent.

3 (IX) Immediately preceding the qualified employee's
4 commencement of employment with the qualified taxpayer, was
5 a resident of a targeted tax area.

6 (X) Immediately preceding the qualified employee's
7 commencement of employment with the taxpayer, was a member
8 of a targeted group, as defined in Section 51(d) of the Internal
9 Revenue Code, or its successor.

10 (B) Priority for employment shall be provided to an individual
11 who is enrolled in a qualified program under the federal Job
12 Training Partnership Act or the Greater Avenues for Independence
13 Act of 1985 or who is eligible as a member of a targeted group
14 under the Work Opportunity Tax Credit (Section 51 of the Internal
15 Revenue Code), or its successor.

16 (5) (A) "Qualified taxpayer" means a person or entity that meets
17 both of the following:

18 (i) Is engaged in a trade or business within a targeted tax area
19 designated pursuant to Chapter 12.93 (commencing with Section
20 7097) of Division 7 of Title 1 of the Government Code.

21 (ii) Is engaged in those lines of business described in Codes
22 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
23 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
24 of the Standard Industrial Classification (SIC) Manual published
25 by the United States Office of Management and Budget, 1987
26 edition.

27 (B) In the case of any passthrough entity, the determination of
28 whether a taxpayer is a qualified taxpayer under this section shall
29 be made at the entity level and any credit under this section or
30 Section 17053.34 shall be allowed to the passthrough entity and
31 passed through to the partners or shareholders in accordance with
32 applicable provisions of this part or Part 10 (commencing with
33 Section 17001). For purposes of this subparagraph, the term
34 "passthrough entity" means any partnership or S corporation.

35 (6) "Seasonal employment" means employment by a qualified
36 taxpayer that has regular and predictable substantial reductions in
37 trade or business operations.

38 (c) If the qualified taxpayer is allowed a credit for qualified
39 wages pursuant to this section, only one credit shall be allowed to
40 the taxpayer under this part with respect to those qualified wages.

(d) The qualified taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the targeted tax area, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations for the issuance of certificates pursuant to Section 7097 of the Government Code, and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(e) (1) For purposes of this section:

(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) For purposes of this subdivision, “controlled group of corporations” means “controlled group of corporations” as defined in Section 1563(a) of the Internal Revenue Code, except that:

(i) “More than 50 percent” shall be substituted for “at least 80 percent” each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(ii) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (f)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as

terminated if the employee continues to be employed in that trade or business.

(f) (1) (A) If the employment, other than seasonal employment, of any qualified employee with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

1 (iv) A termination of employment of a qualified employee due
2 to a substantial reduction in the trade or business operations of the
3 taxpayer.

4 (v) A termination of employment of a qualified employee, if
5 that employee is replaced by other qualified employees so as to
6 create a net increase in both the number of employees and the
7 hours of employment.

8 (B) Subparagraph (B) of paragraph (1) shall not apply to any
9 of the following:

10 (i) A failure to continue the seasonal employment of a qualified
11 employee who voluntarily fails to return to the seasonal
12 employment of the qualified taxpayer.

13 (ii) A failure to continue the seasonal employment of a qualified
14 employee who, before the close of the period referred to in
15 subparagraph (B) of paragraph (1), becomes disabled and unable
16 to perform the services of that seasonal employment, unless that
17 disability is removed before the close of that period and the
18 qualified taxpayer fails to offer seasonal employment to that
19 qualified employee.

20 (iii) A failure to continue the seasonal employment of a qualified
21 employee, if it is determined that the failure to continue the
22 seasonal employment was due to the misconduct (as defined in
23 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
24 Code of Regulations) of that qualified employee.

25 (iv) A failure to continue seasonal employment of a qualified
26 employee due to a substantial reduction in the regular seasonal
27 trade or business operations of the qualified taxpayer.

28 (v) A failure to continue the seasonal employment of a qualified
29 employee, if that qualified employee is replaced by other qualified
30 employees so as to create a net increase in both the number of
31 seasonal employees and the hours of seasonal employment.

32 (C) For purposes of paragraph (1), the employment relationship
33 between the qualified taxpayer and a qualified employee shall not
34 be treated as terminated by either of the following:

35 (i) By a transaction to which Section 381(a) of the Internal
36 Revenue Code applies, if the qualified employee continues to be
37 employed by the acquiring corporation.

38 (ii) By reason of a mere change in the form of conducting the
39 trade or business of the qualified taxpayer, if the qualified
40 employee continues to be employed in that trade or business and

1 the qualified taxpayer retains a substantial interest in that trade or
2 business.

3 (3) Any increase in tax under paragraph (1) shall not be treated
4 as tax imposed by this part for purposes of determining the amount
5 of any credit allowable under this part.

6 (g) Rules similar to the rules provided in Sections 46(e) and (h)
7 of the Internal Revenue Code shall apply to both of the following:

8 (1) An organization to which Section 593 of the Internal
9 Revenue Code applies.

10 (2) A regulated investment company or a real estate investment
11 trust subject to taxation under this part.

12 (h) For purposes of this section, “targeted tax area” means an
13 area designated pursuant to Chapter 12.93 (commencing with
14 Section 7097) of Division 7 of Title 1 of the Government Code.

15 (i) In the case where the credit otherwise allowed under this
16 section exceeds the “tax” for the taxable year, that portion of the
17 credit that exceeds the “tax” may be carried over and added to the
18 credit, if any, in succeeding taxable years, until the credit is
19 exhausted. The credit shall be applied first to the earliest taxable
20 years possible.

21 (j) (1) The amount of the credit otherwise allowed under this
22 section and Section 23633, including any credit carryover from
23 prior years, that may reduce the “tax” for the taxable year shall
24 not exceed the amount of tax that would be imposed on the
25 qualified taxpayer’s business income attributable to the targeted
26 tax area determined as if that attributable income represented all
27 of the income of the qualified taxpayer subject to tax under this
28 part.

29 (2) Attributable income shall be that portion of the taxpayer’s
30 California source business income that is apportioned to the
31 targeted tax area. For that purpose, the taxpayer’s business income
32 attributable to sources in this state first shall be determined in
33 accordance with Chapter 17 (commencing with Section 25101).
34 That business income shall be further apportioned to the targeted
35 tax area in accordance with Article 2 (commencing with Section
36 25120) of Chapter 17, modified for purposes of this section in
37 accordance with paragraph (3).

38 (3) Business income shall be apportioned to the targeted tax
39 area by multiplying the total California business income of the
40 taxpayer by a fraction, the numerator of which is the property

1 factor plus the payroll factor, and the denominator of which is two.

2 For purposes of this paragraph:

3 (A) The property factor is a fraction, the numerator of which is
4 the average value of the taxpayer's real and tangible personal
5 property owned or rented and used in the targeted tax area during
6 the taxable year, and the denominator of which is the average value
7 of all the taxpayer's real and tangible personal property owned or
8 rented and used in this state during the taxable year.

9 (B) The payroll factor is a fraction, the numerator of which is
10 the total amount paid by the taxpayer in the targeted tax area during
11 the taxable year for compensation, and the denominator of which
12 is the total compensation paid by the taxpayer in this state during
13 the taxable year.

14 (4) The portion of any credit remaining, if any, after application
15 of this subdivision, shall be carried over to succeeding taxable
16 years, as if it were an amount exceeding the "tax" for the taxable
17 year, as provided in subdivision (h).

18 (5) In the event that a credit carryover is allowable under
19 subdivision (h) for any taxable year after the targeted tax area
20 designation has expired or been revoked, the targeted tax area shall
21 be deemed to remain in existence for purposes of computing the
22 limitation specified in this subdivision.

23 (k) (1) This section shall cease to be operative for taxable years
24 beginning on or after January 1, 2011.

25 (2) In the case of any portion of a credit available for carryover
26 to a taxable year beginning on or after January 1, 2011, under
27 subdivision (i), as that subdivision read prior to the amendments
28 made by the act adding this subdivision, neither that subdivision
29 nor subdivision (f) of Section 23036 shall apply, and those unused
30 credit amounts shall not be carried over to any taxable year
31 beginning on or after January 1, 2011.

32 (l) This section shall be repealed as of December 1, 2011.

33 SEC. 116. Section 23645 of the Revenue and Taxation Code
34 is amended to read:

35 23645. (a) For each taxable year beginning on or after January
36 1, 1995, there shall be allowed as a credit against the "tax" (as
37 defined by Section 23036) for the taxable year an amount equal
38 to the sales or use tax paid or incurred by the taxpayer in
39 connection with the purchase of qualified property to the extent

1 that the qualified property does not exceed a value of twenty
2 million dollars (\$20,000,000).

3 (b) For purposes of this section:

4 (1) "LAMBRA" means a local agency military base recovery
5 area designated in accordance with Section 7114 of the Government
6 Code.

7 (2) "Taxpayer" means a corporation that conducts a trade or
8 business within a LAMBRA and, for the first two taxable years,
9 has a net increase in jobs (defined as 2,000 paid hours per employee
10 per year) of one or more employees in the LAMBRA.

11 (A) The net increase in the number of jobs shall be determined
12 by subtracting the total number of full-time employees (defined
13 as 2,000 paid hours per employee per year) the taxpayer employed
14 in this state in the taxable year prior to commencing business
15 operations in the LAMBRA from the total number of full-time
16 employees the taxpayer employed in this state during the second
17 taxable year after commencing business operations in the
18 LAMBRA. For taxpayers who commence doing business in this
19 state with their LAMBRA business operation, the number of
20 employees for the taxable year prior to commencing business
21 operations in the LAMBRA shall be zero. If the taxpayer has a net
22 increase in jobs in the state, the credit shall be allowed only if one
23 or more full-time employees is employed within the LAMBRA.

24 (B) The total number of employees employed in the LAMBRA
25 shall equal the sum of both of the following:

26 (i) The total number of hours worked in the LAMBRA for the
27 taxpayer by employees (not to exceed 2,000 hours per employee)
28 who are paid an hourly wage divided by 2,000.

29 (ii) The total number of months worked in the LAMBRA for
30 the taxpayer by employees that are salaried employees divided by
31 12.

32 (C) In the case of a taxpayer who first commences doing
33 business in the LAMBRA during the taxable year, for purposes of
34 clauses (i) and (ii), respectively, of subparagraph (B) the divisors
35 "2,000" and "12" shall be multiplied by a fraction, the numerator
36 of which is the number of months of the taxable year that the
37 taxpayer was doing business in the LAMBRA and the denominator
38 of which is 12.

39 (3) "Qualified property" means property that is each of the
40 following:

1 (A) Purchased by the taxpayer for exclusive use in a trade or
2 business conducted within a LAMBRA.

3 (B) Purchased before the date the LAMBRA designation expires,
4 is no longer binding, or becomes inoperative.

5 (C) Any of the following:

6 (i) High technology equipment, including, but not limited to,
7 computers and electronic processing equipment.

8 (ii) Aircraft maintenance equipment, including, but not limited
9 to, engine stands, hydraulic mules, power carts, test equipment,
10 handtools, aircraft start carts, and tugs.

11 (iii) Aircraft components, including, but not limited to, engines,
12 fuel control units, hydraulic pumps, avionics, starts, wheels, and
13 tires.

14 (iv) Section 1245 property, as defined in Section 1245(a)(3) of
15 the Internal Revenue Code.

16 (c) The credit provided under subdivision (a) shall only be
17 allowed for qualified property manufactured in California unless
18 qualified property of a comparable quality and price is not available
19 for timely purchase and delivery from a California manufacturer.

20 (d) In the case where the credit otherwise allowed under this
21 section exceeds the “tax” for the taxable year, that portion of the
22 credit which exceeds the “tax” may be carried over and added to
23 the credit, if any, in succeeding years, until the credit is exhausted.
24 The credit shall be applied first to the earliest taxable years
25 possible.

26 (e) Any taxpayer who elects to be subject to this section shall
27 not be entitled to increase the basis of the property as otherwise
28 required by Section 164(a) of the Internal Revenue Code with
29 respect to sales or use tax paid or incurred in connection with the
30 purchase of qualified property.

31 (f) (1) The amount of the credit otherwise allowed under this
32 section and Section 23646, including any credit carryovers from
33 prior years, that may reduce the “tax” for the taxable year shall
34 not exceed the amount of tax that would be imposed on the
35 taxpayer’s business income attributed to a LAMBRA determined
36 as if that attributable income represented all the income of the
37 taxpayer subject to tax under this part.

38 (2) Attributable income shall be that portion of the taxpayer’s
39 California source business income that is apportioned to the
40 LAMBRA. For that purpose, the taxpayer’s business income that

1 is attributable to sources in this state shall first be determined in
2 accordance with Chapter 17 (commencing with Section 25101).
3 That business income shall be further apportioned to the LAMBRA
4 in accordance with Article 2 (commencing with Section 25120)
5 of Chapter 17, modified for purposes of this section in accordance
6 with paragraph (3).

7 (3) Income shall be apportioned to a LAMBRA by multiplying
8 the total California business income of the taxpayer by a fraction,
9 the numerator of which is the property factor, plus the payroll
10 factor, and the denominator of which is two. For purposes of this
11 paragraph:

12 (A) The property factor is a fraction, the numerator of which is
13 the average value of the taxpayer's real and tangible personal
14 property owned or rented and used in the LAMBRA during the
15 taxable year, and the denominator of which is the average value
16 of all the taxpayer's real and tangible personal property owned or
17 rented and used in this state during the taxable year.

18 (B) The payroll factor is a fraction, the numerator of which is
19 the total amount paid by the taxpayer in the LAMBRA during the
20 taxable year for compensation, and the denominator of which is
21 the total compensation paid by the taxpayer in this state during the
22 taxable year.

23 (4) The portion of any credit remaining, if any, after application
24 of this subdivision, shall be carried over to succeeding taxable
25 years, as if it were an amount exceeding the "tax" for the taxable
26 year, as provided in subdivision (d).

27 (g) (1) If the qualified property is disposed of or no longer used
28 by the taxpayer in the LAMBRA, at any time before the close of
29 the second taxable year after the property is placed in service, the
30 amount of the credit previously claimed, with respect to that
31 property, shall be added to the taxpayer's tax liability in the taxable
32 year of that disposition or nonuse.

33 (2) At the close of the second taxable year, if the taxpayer has
34 not increased the number of its employees as determined by
35 paragraph (2) of subdivision (b), then the amount of the credit
36 previously claimed shall be added to the taxpayer's tax for the
37 taxpayer's second taxable year.

38 (h) If the taxpayer is allowed a credit for qualified property
39 pursuant to this section, only one credit shall be allowed to the
40 taxpayer under this part with respect to that qualified property.

1 (i) The amendments made to this section by the act adding this
2 subdivision shall apply to taxable years beginning on or after
3 January 1, 1998.

4 (j) (1) This section shall cease to be operative for taxable years
5 beginning on or after January 1, 2011.

6 (2) In the case of any portion of a credit available for carryover
7 to a taxable year beginning on or after January 1, 2011, under
8 subdivision (d), as that subdivision read prior to the amendments
9 made by the act adding this subdivision, neither that subdivision
10 nor subdivision (f) of Section 23036 shall apply, and those unused
11 credit amounts shall not be carried over to any taxable year
12 beginning on or after January 1, 2011.

13 (k) This section shall be repealed as of December 1, 2011.

14 SEC. 117. Section 23646 of the Revenue and Taxation Code
15 is amended to read:

16 23646. (a) For each taxable year beginning on or after January
17 1, 1995, there shall be allowed as a credit against the “tax” (as
18 defined in Section 23036) to a qualified taxpayer for hiring a
19 qualified disadvantaged individual or a qualified displaced
20 employee during the taxable year for employment in the LAMBRA.
21 The credit shall be equal to the sum of each of the following:

22 (1) Fifty percent of the qualified wages in the first year of
23 employment.

24 (2) Forty percent of the qualified wages in the second year of
25 employment.

26 (3) Thirty percent of the qualified wages in the third year of
27 employment.

28 (4) Twenty percent of the qualified wages in the fourth year of
29 employment.

30 (5) Ten percent of the qualified wages in the fifth year of
31 employment.

32 (b) For purposes of this section:

33 (1) “Qualified wages” means:

34 (A) That portion of wages paid or incurred by the employer
35 during the taxable year to qualified disadvantaged individuals or
36 qualified displaced employees that does not exceed 150 percent
37 of the minimum wage.

38 (B) The total amount of qualified wages which may be taken
39 into account for purposes of claiming the credit allowed under this

1 section shall not exceed two million dollars (\$2,000,000) per
2 taxable year.

3 (C) Wages received during the 60-month period beginning with
4 the first day the individual commences employment with the
5 taxpayer. Reemployment in connection with any increase, including
6 a regularly occurring seasonal increase, in the trade or business
7 operation of the qualified taxpayer does not constitute
8 commencement of employment for purposes of this section.

9 (D) Qualified wages do not include any wages paid or incurred
10 by the qualified taxpayer on or after the LAMBRA expiration date.
11 However, wages paid or incurred with respect to qualified
12 disadvantaged individuals or qualified displaced employees who
13 are employed by the qualified taxpayer within the LAMBRA within
14 the 60-month period prior to the LAMBRA expiration date shall
15 continue to qualify for the credit under this section after the
16 LAMBRA expiration date, in accordance with all provisions of
17 this section applied as if the LAMBRA designation were still in
18 existence and binding.

19 (2) "Minimum wage" means the wage established by the
20 Industrial Welfare Commission as provided for in Chapter 1
21 (commencing with Section 1171) of Part 4 of Division 2 of the
22 Labor Code.

23 (3) "LAMBRA" means a local agency military base recovery
24 area designated in accordance with the provisions of Section 7114
25 of the Government Code.

26 (4) "Qualified disadvantaged individual" means an individual
27 who satisfies all of the following requirements:

28 (A) (i) At least 90 percent of whose services for the taxpayer
29 during the taxable year are directly related to the conduct of the
30 taxpayer's trade or business located in a LAMBRA.

31 (ii) Who performs at least 50 percent of his or her services for
32 the taxpayer during the taxable year in the LAMBRA.

33 (B) Who is hired by the employer after the designation of the
34 area as a LAMBRA in which the individual's services were
35 primarily performed.

36 (C) Who is any of the following immediately preceding the
37 individual's commencement of employment with the taxpayer:

38 (i) An individual who has been determined eligible for services
39 under the federal Job Training Partnership Act (29 U.S.C. Sec.
40 1501 et seq.), or its successor.

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) An economically disadvantaged individual age 16 years or older.

(iv) A dislocated worker who meets any of the following conditions:

(I) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(II) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

(III) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(IV) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(V) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(VI) Was an active member of the Armed Forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(VII) Experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(VIII) Has been terminated or laid off or has received a notice of termination or layoff as a consequence of compliance with the Clean Air Act.

(v) An individual who is enrolled in or has completed a state rehabilitation plan or is a service-connected disabled veteran,

1 veteran of the Vietnam era, or veteran who is recently separated
2 from military service.

3 (vi) An ex-offender. An individual shall be treated as convicted
4 if he or she was placed on probation by a state court without a
5 finding of guilty.

6 (vii) A recipient of:

7 (I) Federal Supplemental Security Income benefits.

8 (II) Aid to Families with Dependent Children.

9 (III) Food stamps.

10 (IV) State and local general assistance.

11 (viii) Is a member of a federally recognized Indian tribe, band,
12 or other group of Native American descent.

13 (5) “Qualified taxpayer” means a corporation that conducts a
14 trade or business within a LAMBRA and, for the first two taxable
15 years, has a net increase in jobs (defined as 2,000 paid hours per
16 employee per year) of one or more employees as determined below
17 in the LAMBRA.

18 (A) The net increase in the number of jobs shall be determined
19 by subtracting the total number of full-time employees (defined
20 as 2,000 paid hours per employee per year) the taxpayer employed
21 in this state in the taxable year prior to commencing business
22 operations in the LAMBRA from the total number of full-time
23 employees the taxpayer employed in this state during the second
24 taxable year after commencing business operations in the
25 LAMBRA. For taxpayers who commence doing business in this
26 state with their LAMBRA business operation, the number of
27 employees for the taxable year prior to commencing business
28 operations in the LAMBRA shall be zero. If the taxpayer has a net
29 increase in jobs in the state, the credit shall be allowed only if one
30 or more full-time employees is employed within the LAMBRA.

31 (B) The total number of employees employed in the LAMBRA
32 shall equal the sum of both of the following:

33 (i) The total number of hours worked in the LAMBRA for the
34 taxpayer by employees (not to exceed 2,000 hours per employee)
35 who are paid an hourly wage divided by 2,000.

36 (ii) The total number of months worked in the LAMBRA for
37 the taxpayer by employees who are salaried employees divided
38 by 12.

39 (C) In the case of a qualified taxpayer that first commences
40 doing business in the LAMBRA during the taxable year, for

1 purposes of clauses (i) and (ii), respectively, of subparagraph (B)
2 the divisors “2,000” and “12” shall be multiplied by a fraction, the
3 numerator of which is the number of months of the taxable year
4 that the taxpayer was doing business in the LAMBRA and the
5 denominator of which is 12.

6 (6) “Qualified displaced employee” means an individual who
7 satisfies all of the following requirements:

8 (A) Any civilian or military employee of a base or former base
9 that has been displaced as a result of a federal base closure act.

10 (B) (i) At least 90 percent of whose services for the taxpayer
11 during the taxable year are directly related to the conduct of the
12 taxpayer’s trade or business located in a LAMBRA.

13 (ii) Who performs at least 50 percent of his or her services for
14 the taxpayer during the taxable year in a LAMBRA.

15 (C) Who is hired by the employer after the designation of the
16 area in which services were performed as a LAMBRA.

17 (7) “Seasonal employment” means employment by a qualified
18 taxpayer that has regular and predictable substantial reductions in
19 trade or business operations.

20 (8) “LAMBRA expiration date” means the date the LAMBRA
21 designation expires, is no longer binding, or becomes inoperative.

22 (c) For qualified disadvantaged individuals or qualified displaced
23 employees hired on or after January 1, 2001, the taxpayer shall do
24 both of the following:

25 (1) Obtain from the Employment Development Department, as
26 permitted by federal law, the administrative entity of the local
27 county or city for the federal Job Training Partnership Act, or its
28 successor, the local county GAIN office or social services agency,
29 or the local government administering the LAMBRA, a
30 certification that provides that a qualified disadvantaged individual
31 or qualified displaced employee meets the eligibility requirements
32 specified in subparagraph (C) of paragraph (4) of subdivision (b)
33 or subparagraph (A) of paragraph (6) of subdivision (b). The
34 Employment Development Department may provide preliminary
35 screening and referral to a certifying agency. The Department of
36 Housing and Community Development shall develop regulations
37 governing the issuance of certificates pursuant to Section 7114.2
38 of the Government Code and shall develop forms for this purpose.

39 (2) Retain a copy of the certification and provide it upon request
40 to the Franchise Tax Board.

1 (d) (1) For purposes of this section, both of the following apply:

2 (A) All employees of all corporations that are members of the
3 same controlled group of corporations shall be treated as employed
4 by a single employer.

5 (B) The credit (if any) allowable by this section to each member
6 shall be determined by reference to its proportionate share of the
7 qualified wages giving rise to the credit.

8 (2) For purposes of this subdivision, “controlled group of
9 corporations” has the meaning given to that term by Section
10 1563(a) of the Internal Revenue Code, except that both of the
11 following apply:

12 (A) “More than 50 percent” shall be substituted for “at least 80
13 percent” each place it appears in Section 1563(a)(1) of the Internal
14 Revenue Code.

15 (B) The determination shall be made without regard to Section
16 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue
17 Code.

18 (3) If an employer acquires the major portion of a trade or
19 business of another employer (hereinafter in this paragraph referred
20 to as the “predecessor”) or the major portion of a separate unit of
21 a trade or business of a predecessor, then, for purposes of applying
22 this section (other than subdivision (e)) for any calendar year
23 ending after that acquisition, the employment relationship between
24 an employee and an employer shall not be treated as terminated if
25 the employee continues to be employed in that trade or business.

26 (e) (1) (A) If the employment of any employee, other than
27 seasonal employment, with respect to whom qualified wages are
28 taken into account under subdivision (a) is terminated by the
29 taxpayer at any time during the first 270 days of that employment
30 (whether or not consecutive) or before the close of the 270th
31 calendar day after the day in which that employee completes 90
32 days of employment with the taxpayer, the tax imposed by this
33 part for the taxable year in which that employment is terminated
34 shall be increased by an amount equal to the credit allowed under
35 subdivision (a) for that taxable year and all prior income years
36 attributable to qualified wages paid or incurred with respect to that
37 employee.

38 (B) If the seasonal employment of any qualified disadvantaged
39 individual, with respect to whom qualified wages are taken into
40 account under subdivision (a) is not continued by the qualified

1 taxpayer for a period of 270 days of employment during the
2 60-month period beginning with the day the qualified
3 disadvantaged individual commences seasonal employment with
4 the qualified taxpayer, the tax imposed by this part, for the taxable
5 year that includes the 60th month following the month in which
6 the qualified disadvantaged individual commences seasonal
7 employment with the qualified taxpayer, shall be increased by an
8 amount equal to the credit allowed under subdivision (a) for that
9 taxable year and all prior taxable years attributable to qualified
10 wages paid or incurred with respect to that qualified disadvantaged
11 individual.

12 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
13 any of the following:

14 (i) A termination of employment of an employee who voluntarily
15 leaves the employment of the taxpayer.

16 (ii) A termination of employment of an individual who, before
17 the close of the period referred to in paragraph (1), becomes
18 disabled to perform the services of that employment, unless that
19 disability is removed before the close of that period and the
20 taxpayer fails to offer reemployment to that individual.

21 (iii) A termination of employment of an individual, if it is
22 determined that the termination was due to the misconduct (as
23 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
24 the California Code of Regulations) of that individual.

25 (iv) A termination of employment of an individual due to a
26 substantial reduction in the trade or business operations of the
27 taxpayer.

28 (v) A termination of employment of an individual, if that
29 individual is replaced by other qualified employees so as to create
30 a net increase in both the number of employees and the hours of
31 employment.

32 (B) Subparagraph (B) of paragraph (1) shall not apply to any
33 of the following:

34 (i) A failure to continue the seasonal employment of a qualified
35 disadvantaged individual who voluntarily fails to return to the
36 seasonal employment of the qualified taxpayer.

37 (ii) A failure to continue the seasonal employment of a qualified
38 disadvantaged individual who, before the close of the period
39 referred to in subparagraph (B) of paragraph (1), becomes disabled
40 and unable to perform the services of that seasonal employment,

1 unless that disability is removed before the close of that period
2 and the qualified taxpayer fails to offer seasonal employment to
3 that qualified disadvantaged individual.

4 (iii) A failure to continue the seasonal employment of a qualified
5 disadvantaged individual, if it is determined that the failure to
6 continue the seasonal employment was due to the misconduct (as
7 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
8 the California Code of Regulations) of that individual.

9 (iv) A failure to continue seasonal employment of a qualified
10 disadvantaged individual due to a substantial reduction in the
11 regular seasonal trade or business operations of the qualified
12 taxpayer.

13 (v) A failure to continue the seasonal employment of a qualified
14 disadvantaged individual, if that individual is replaced by other
15 qualified disadvantaged individuals so as to create a net increase
16 in both the number of seasonal employees and the hours of seasonal
17 employment.

18 (C) For purposes of paragraph (1), the employment relationship
19 between the taxpayer and an employee shall not be treated as
20 terminated by either of the following:

21 (i) A transaction to which Section 381(a) of the Internal Revenue
22 Code applies, if the employee continues to be employed by the
23 acquiring corporation.

24 (ii) A mere change in the form of conducting the trade or
25 business of the taxpayer, if the employee continues to be employed
26 in that trade or business and the taxpayer retains a substantial
27 interest in that trade or business.

28 (3) Any increase in tax under paragraph (1) shall not be treated
29 as tax imposed by this part for purposes of determining the amount
30 of any credit allowable under this part.

31 (4) At the close of the second taxable year, if the taxpayer has
32 not increased the number of its employees as determined by
33 paragraph (5) of subdivision (b), then the amount of the credit
34 previously claimed shall be added to the taxpayer's tax for the
35 taxpayer's second taxable year.

36 (f) In the case of an organization to which Section 593 of the
37 Internal Revenue Code applies, and a regulated investment
38 company or a real estate investment trust subject to taxation under
39 this part, rules similar to the rules provided in Section 46(e) and
40 Section 46(h) of the Internal Revenue Code shall apply.

(g) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (h) or (i).

(h) In the case where the credit otherwise allowed under this section exceeds the “tax” for the taxable year, that portion of the credit that exceeds the “tax” may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(i) (1) The amount of credit otherwise allowed under this section and Section 23645, including any prior year carryovers, that may reduce the “tax” for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer’s business income attributed to a LAMBRA determined as if that attributed income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the LAMBRA. For that purpose, the taxpayer’s business income that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a LAMBRA by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the LAMBRA during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.

1 (B) The payroll factor is a fraction, the numerator of which is
2 the total amount paid by the taxpayer in the LAMBRA during the
3 taxable year for compensation, and the denominator of which is
4 the total compensation paid by the taxpayer in this state during the
5 taxable year.

6 (4) The portion of any credit remaining, if any, after application
7 of this subdivision, shall be carried over to succeeding taxable
8 years, as if it were an amount exceeding the “tax” for the taxable
9 year, as provided in subdivision (h).

10 (j) If the taxpayer is allowed a credit pursuant to this section for
11 qualified wages paid or incurred, only one credit shall be allowed
12 to the taxpayer under this part with respect to any wage consisting
13 in whole or in part of those qualified wages.

14 (k) (1) This section shall cease to be operative for taxable years
15 beginning on or after January 1, 2011.

16 (2) In the case of any portion of a credit available for carryover
17 to a taxable year beginning on or after January 1, 2011, under
18 subdivision (h), as that subdivision read prior to the amendments
19 made by the act adding this subdivision, neither that subdivision
20 nor subdivision (f) of Section 23036 shall apply, and those unused
21 credit amounts shall not be carried over to any taxable year
22 beginning on or after January 1, 2011.

23 (l) This section shall be repealed as of December 1, 2011.

24 SEC. 118. Section 24356.6 of the Revenue and Taxation Code
25 is amended to read:

26 24356.6. (a) For each taxable year beginning on or after
27 January 1, 1998, a qualified taxpayer may elect to treat 40 percent
28 of the cost of any Section 24356.6 property as an expense that is
29 not chargeable to a capital account. Any cost so treated shall be
30 allowed as a deduction for the taxable year in which the qualified
31 taxpayer places the Section 24356.6 property in service.

32 (b) (1) An election under this section for any taxable year shall
33 do both of the following:

34 (A) Specify the items of Section 24356.6 property to which the
35 election applies and the percentage of the cost of each of those
36 items that are to be taken into account under subdivision (a).

37 (B) Be made on the qualified taxpayer’s original return of the
38 tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(c) (1) For purposes of this section, “Section 24356.6 property” means any recovery property that is:

(A) Section 1245 property (as defined in Section 1245 (a)(3) of the Internal Revenue Code).

(B) Purchased and placed in service by the qualified taxpayer for exclusive use in a trade or business conducted within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(C) Purchased and placed in service before the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(2) For purposes of paragraph (1), “purchase” means any acquisition of property, but only if all of the following apply:

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or 707(b) of the Internal Revenue Code. However, in applying Sections 267(b) and 267(c) for purposes of this section, Section 267(c)(4) shall be treated as providing that the family of an individual shall include only the individual’s spouse, ancestors, and lineal descendants.

(B) The property is not acquired by one member of an affiliated group from another member of the same affiliated group.

(C) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of that property in the hands of the person from who it is acquired.

(3) For purposes of this section, the cost of property does not include that portion of the basis of that property that is determined by reference to the basis of other property held at any time by the person acquiring that property.

(4) This section shall not apply to any property for which the qualified taxpayer may not make an election under Section 179 of the Internal Revenue Code because of the application of the provisions of Section 179(d) of the Internal Revenue Code.

(5) For purposes of subdivision (b), both of the following apply:

(A) All members of an affiliated group shall be treated as one qualified taxpayer.

1 (B) The qualified taxpayer shall apportion the dollar limitation
2 contained in subdivision (f) among the members of the affiliated
3 group in whatever manner the board shall prescribe.

4 (6) For purposes of paragraphs (2) and (5), “affiliated group”
5 means “affiliated group” as defined in Section 1504 of the Internal
6 Revenue Code, except that, for these purposes, the phrase “more
7 than 50 percent” shall be substituted for the phrase “at least 80
8 percent” each place it appears in Section 1504(a) of the Internal
9 Revenue Code.

10 (d) (1) For purposes of this section, “qualified taxpayer” means
11 a corporation that meets both of the following:

12 (A) Is engaged in conducting a trade or business within a
13 targeted tax area designated pursuant to Chapter 12.93
14 (commencing with Section 7097) of Division 7 of Title 1 of the
15 Government Code.

16 (B) Is engaged in those lines of business described in Codes
17 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
18 inclusive; 4500 to 4599, inclusive, and 4700 to 5199, inclusive,
19 of the Standard Industrial Classification (SIC) Manual published
20 by the United States Office of Management and Budget, 1987
21 edition.

22 (2) In the case of any pass-through entity, the determination of
23 whether a taxpayer is a qualified taxpayer under this section shall
24 be made at the entity level and any deduction under this section
25 or Section 17267.6 shall be allowed to the pass-through entity and
26 passed through to the partners or shareholders in accordance with
27 applicable provisions of this part or Part 10 (commencing with
28 Section 17001). For purposes of this subparagraph, the term
29 “pass-through entity” means any partnership or S corporation.

30 (e) Any qualified taxpayer who elects to be subject to this
31 section shall not be entitled to claim additional depreciation
32 pursuant to Section 24356 with respect to any property that
33 constitutes Section 24356.6 property. However, the qualified
34 taxpayer may claim depreciation by any method permitted by
35 Section 24349 commencing with the taxable year following the
36 taxable year in which Section 24356.6 property is placed in service.

37 (f) The aggregate cost of all Section 24356.6 property that may
38 be taken into account under subdivision (a) for any taxable year
39 shall not exceed the following applicable amount for the taxable

year of the designation of the relevant targeted tax area and taxable years thereafter:

	The applicable
	amount is:
Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	100,000
2nd taxable year thereafter.....	75,000
3rd taxable year thereafter.....	75,000
Each taxable year thereafter.....	50,000

(g) Any amounts deducted under subdivision (a) with respect to Section 24356.6 property that ceases to be used in the qualified taxpayer's trade or business within a targeted tax area at any time before the close of the second taxable year after the property is placed in service shall be included in income in the taxable year in which the property ceases to be so used.

(h) (1) This section shall cease to be operative for taxable years beginning on or after January 1, 2011.

(2) This section shall be repealed as of December 1, 2011.

SEC. 119. Section 24356.7 of the Revenue and Taxation Code is amended to read:

24356.7. (a) A taxpayer may elect to treat 40 percent of the cost of any Section 24356.7 property as an expense that is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the taxpayer places the Section 24356.7 property in service.

(b) (1) An election under this section for any taxable year shall do both of the following:

(A) Specify the items of Section 24356.7 property to which the election applies and the percentage of the cost of each of those items that are to be taken into account under subdivision (a).

(B) Be made on the taxpayer's original return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(c) (1) For purposes of this section, "Section 24356.7 property" means any recovery property that is:

1 (A) Section 1245 property (as defined in Section 1245(a)(3) of
2 the Internal Revenue Code).

3 (B) Purchased and placed in service by the taxpayer for
4 exclusive use in a trade or business conducted within an enterprise
5 zone designated pursuant to Chapter 12.8 (commencing with
6 Section 7070) of Division 7 of Title 1 of the Government Code.

7 (C) Purchased and placed in service before the date the
8 enterprise zone designation expires, is no longer binding, or
9 becomes inoperative.

10 (2) For purposes of paragraph (1), “purchase” means any
11 acquisition of property, but only if all of the following apply:

12 (A) The property is not acquired from a person whose
13 relationship to the person acquiring it would result in the
14 disallowance of losses under Sections 24427 through 24429.
15 However, in applying Sections 24428 and 24429 for purposes of
16 this section, subdivision (d) of Section 24429 shall be treated as
17 providing that the family of an individual shall include only his or
18 her spouse, ancestors, and lineal descendants.

19 (B) The property is not acquired by one member of an affiliated
20 group from another member of the same affiliated group.

21 (C) The basis of the property in the hands of the person acquiring
22 it is not determined in whole or in part by reference to the adjusted
23 basis of that property in the hands of the person from whom it is
24 acquired.

25 (3) For purposes of this section, the cost of property does not
26 include that portion of the basis of that property that is determined
27 by reference to the basis of other property held at any time by the
28 person acquiring that property.

29 (4) This section shall not apply to any property for which the
30 taxpayer could not make a federal election under Section 179 of
31 the Internal Revenue Code because of the application of the
32 provisions of Section 179(d) of the Internal Revenue Code.

33 (5) For purposes of subdivision (b) of this section, both of the
34 following apply:

35 (A) All members of an affiliated group shall be treated as one
36 taxpayer.

37 (B) The taxpayer shall apportion the dollar limitation contained
38 in subdivision (f) among the members of the affiliated group in
39 whatever manner the board shall prescribe.

(6) For purposes of paragraphs (2) and (5), “affiliated group” means “affiliated group” as defined in Section 1504 of the Internal Revenue Code, except that, for these purposes, the phrase “more than 50 percent” shall be substituted for the phrase “at least 80 percent” each place it appears in Section 1504(a) of the Internal Revenue Code.

(d) For purposes of this section, “taxpayer” means a bank or corporation that conducts a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 24356 with respect to any property that constitutes Section 24356.7 property. However, the taxpayer may claim depreciation by any method permitted by Section 24349 commencing with the taxable year following the taxable year in which Section 24356.7 property is placed in service.

(f) The aggregate cost of all Section 24356.7 property that may be taken into account under subdivision (a) for any taxable years shall not exceed the following applicable amount for the taxable year of the designation of the relevant enterprise zone and taxable years thereafter:

	The applicable amount is:
Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	100,000
2nd taxable year thereafter.....	75,000
3rd taxable year thereafter.....	75,000
Each taxable year thereafter.....	50,000

(g) Any amounts deducted under subdivision (a) with respect to Section 24356.7 property that ceases to be used in the taxpayer’s trade or business within an enterprise zone at any time before the close of the second taxable year after the property is placed in service shall be included in income in the taxable year in which the property ceases to be so used.

(h) (1) This section shall cease to be operative for taxable years beginning on or after January 1, 2011.

(2) This section shall be repealed as of December 1, 2011.

1 SEC. 120. Section 24356.8 of the Revenue and Taxation Code
2 is amended to read:

3 24356.8. (a) For each taxable year beginning on or after
4 January 1, 1995, a taxpayer may elect to treat 40 percent of the
5 cost of any Section 24356.8 property as an expense that is not
6 chargeable to the capital account. Any cost so treated shall be
7 allowed as a deduction for the taxable year in which the taxpayer
8 places the Section 24356.8 property in service.

9 (b) (1) An election under this section for any taxable year shall
10 meet both of the following requirements:

11 (A) Specify the items of Section 24356.8 property to which the
12 election applies and the portion of the cost of each of those items
13 that is to be taken into account under subdivision (a).

14 (B) Be made on the taxpayer's return of the tax imposed by this
15 part for the taxable year.

16 (2) Any election made under this section, and any specification
17 contained in that election, may not be revoked except with the
18 consent of the Franchise Tax Board.

19 (c) (1) For purposes of this section, "Section 24356.8 property"
20 means any recovery property that is:

21 (A) Section 1245 property (as defined in Section 1245(a)(3) of
22 the Internal Revenue Code).

23 (B) Purchased by the taxpayer for exclusive use in a trade or
24 business conducted within a LAMBRA.

25 (C) Purchased before the date the LAMBRA designation expires,
26 is no longer binding, or becomes inoperative.

27 (2) For purposes of paragraph (1), "purchase" means any
28 acquisition of property, but only if all of the following apply:

29 (A) The property is not acquired from a person whose
30 relationship to the person acquiring it would result in the
31 disallowance of losses under Section 267 or 707(b) of the Internal
32 Revenue Code (but, in applying Sections 267(b) and 267(c) of the
33 Internal Revenue Code for purposes of this section, Section
34 267(c)(4) of the Internal Revenue Code shall be treated as
35 providing that the family of an individual shall include only his or
36 her spouse, ancestors, and lineal descendants).

37 (B) The property is not acquired by one component member of
38 an affiliated group from another component member of the same
39 affiliated group.

1 (C) The basis of the property in the hands of the person acquiring
2 it is not determined in whole or in part by reference to the adjusted
3 basis of that property in the hands of the person from whom
4 acquired.

5 (3) For purposes of this section, the cost of property does not
6 include so much of the basis of that property as is determined by
7 reference to the basis of other property held at any time by the
8 person acquiring that property.

9 (4) This section shall not apply to any property for which the
10 taxpayer may not make an election for the taxable year under
11 Section 179 of the Internal Revenue Code because of the provisions
12 of Section 179(d) of the Internal Revenue Code.

13 (5) For purposes of subdivision (b), both of the following apply:

14 (A) All members of an affiliated group shall be treated as one
15 taxpayer.

16 (B) The taxpayer shall apportion the dollar limitation contained
17 in subdivision (f) among the component members of the affiliated
18 group in whatever manner the board shall by regulations prescribe.

19 (6) For purposes of paragraphs (2) and (5), “affiliated group”
20 has the meaning assigned to it by Section 1504 of the Internal
21 Revenue Code, except that, for these purposes, the phrase “more
22 than 50 percent” shall be substituted for the phrase “at least 80
23 percent” each place it appears in Section 1504(a) of the Internal
24 Revenue Code.

25 (7) This section shall not apply to any property described in
26 Section 168(f) of the Internal Revenue Code.

27 (8) In the case of an S corporation, the dollar limitation
28 contained in subdivision (f) shall be applied at the entity level and
29 at the shareholder level.

30 (d) For purposes of this section:

31 (1) “LAMBRA” means a local agency military base recovery
32 area designated in accordance with the provisions of Section 7114
33 of the Government Code.

34 (2) “Taxpayer” means a corporation that conducts a trade or
35 business within a LAMBRA and, for the first two taxable years,
36 has a net increase in jobs (defined as 2,000 paid hours per employee
37 per year) of one or more employees in the LAMBRA.

38 (A) The net increase in the number of jobs shall be determined
39 by subtracting the total number of full-time employees (defined
40 as 2,000 paid hours per employee per year) the taxpayer employed

in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a taxpayer that first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B), the divisors “2,000” and “12” shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 24356 with respect to any property that constitutes Section 24356.8 property.

(f) The aggregate cost of all Section 24356.8 property that may be taken into account under subdivision (a) for any taxable year shall not exceed the following applicable amounts for the taxable year of the designation of the relevant LAMBRA and taxable years thereafter:

	The applicable amount is:
Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	100,000

1		The applicable
2		amount is:
3	2nd taxable year thereafter.....	75,000
4	3rd taxable year thereafter.....	75,000
5	Each taxable year thereafter.....	50,000

(g) This section shall apply only to property that is used exclusively in a trade or business conducted within a LAMBRA.

(h) (1) Any amounts deducted under subdivision (a) with respect to property that ceases to be used in the trade or business within a LAMBRA at any time before the close of the second taxable year after the property was placed in service shall be included in income for that year.

(2) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (2) of subdivision (d), then the amount of the deduction previously claimed shall be added to the taxpayer's net income for the taxpayer's second taxable year.

(i) Any taxpayer who elects to be subject to this section shall not be entitled to claim for the same property the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets.

(j) (1) This section shall cease to be operative for taxable years beginning on or after January 1, 2011.

(2) This section shall be repealed as of December 1, 2011.

SEC. 121. Section 24384.5 of the Revenue and Taxation Code is amended to read:

24384.5. (a) There shall be allowed as a deduction the amount of net interest received by the taxpayer in payment of indebtedness of a person or entity engaged in a trade or business located in an enterprise zone.

(b) No deduction shall be allowed under this section unless at the time the indebtedness is incurred each of the following requirements are met:

(1) The trade or business is located solely within an enterprise zone.

(2) The indebtedness is incurred solely in connection with activity within the enterprise zone.

(3) The taxpayer has no equity or other ownership interest in the debtor.

1 (c) “Enterprise zone” means an area designated as an enterprise
2 zone pursuant to Chapter 12.8 (commencing with Section 7070)
3 of Division 7 of Title 1 of the Government Code.

4 (d) (1) This section shall cease to be operative for taxable years
5 beginning on or after January 1, 2011.

6 (2) This section shall be repealed as of December 1, 2011.

7 SEC. 122. Section 24416.1 of the Revenue and Taxation Code
8 is amended to read:

9 24416.1. (a) A qualified taxpayer, as defined in Section
10 24416.7, may elect to take the deduction provided by Section 172
11 of the Internal Revenue Code, relating to the net operating loss
12 deduction, as modified by Section 24416.20, in computing net
13 income under Section 24341, with the following exceptions to
14 Section 24416.20:

15 (1) Subdivision (a) of Section 24416.20, relating to years in
16 which allowable losses are sustained, shall not be applicable.

17 (2) Subdivision (b) of Section 24416.20, relating to the
18 50-percent reduction of losses, shall not be applicable.

19 (3) The provisions of subparagraphs (B) and (C) of Section 172
20 (b) (1) of the Internal Revenue Code shall not apply. To the extent
21 applicable to California law, net operating losses attributable to
22 entities with losses described by Section 172(b)(1)(J) shall be
23 applied in accordance with Section 172(b)(1)(A) and (B) of the
24 Internal Revenue Code.

25 (b) Corporations whose income is subject to the provisions of
26 Section 25101 or 25101.15 shall make the computations required
27 by Section 25108.

28 (c) The election to compute the net operating loss under this
29 section shall be made in a statement attached to the original return,
30 timely filed for the year in which the net operating loss is incurred
31 and shall be irrevocable. In addition to the exceptions specified in
32 subdivision (a), Section 24416.7 shall be applicable.

33 (d) The changes made to this section by the act adding this
34 subdivision shall apply to taxable years beginning on or after
35 January 1, 2011.

36 SEC. 123. Section 24416.2 of the Revenue and Taxation Code
37 is amended to read:

38 24416.2. (a) The term “qualified taxpayer” as used in Section
39 24416.1 includes a corporation engaged in the conduct of a trade
40 or business within an enterprise zone designated pursuant to

Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated as an enterprise zone shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of loss.

(2) For purposes of this subdivision:

(A) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the taxpayer’s business activities within the enterprise zone (as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code) prior to the enterprise zone expiration date. That attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101), modified for purposes of this subdivision as follows:

(i) Loss shall be apportioned to the enterprise zone by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) “The enterprise zone” shall be substituted for “this state.”

(B) A net operating loss carryover shall be a deduction only with respect to the taxpayer’s business income attributable to the enterprise zone as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(C) Attributable income is that portion of the taxpayer’s California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this subdivision as follows:

(i) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus

1 the payroll factor, and the denominator of which is two. For
2 purposes of this clause:

3 (I) The property factor is a fraction, the numerator of which is
4 the average value of the taxpayer's real and tangible personal
5 property owned or rented and used in the enterprise zone during
6 the taxable year, and the denominator of which is the average value
7 of all the taxpayer's real and tangible personal property owned or
8 rented and used in this state during the taxable year.

9 (II) The payroll factor is a fraction, the numerator of which is
10 the total amount paid by the taxpayer in the enterprise zone during
11 the taxable year for compensation, and the denominator of which
12 is the total compensation paid by the taxpayer in this state during
13 the taxable year.

14 (ii) If a loss carryover is allowable pursuant to this section for
15 any taxable year after the enterprise zone designation has expired,
16 the enterprise zone shall be deemed to remain in existence for
17 purposes of computing the limitation set forth in subparagraph (B)
18 and allowing a net operating loss deduction.

19 (D) "Enterprise zone expiration date" means the date the
20 enterprise zone designation expires, is no longer binding, or
21 becomes inoperative.

22 (3) The changes made to this subdivision by the act adding this
23 paragraph shall apply to taxable years beginning on or after January
24 1, 1998.

25 (b) A taxpayer who qualifies as a "qualified taxpayer" under
26 one or more sections shall, for the taxable year of the net operating
27 loss and any taxable year to which that net operating loss may be
28 carried, designate on the original return filed for each year the
29 section which applies to that taxpayer with respect to that net
30 operating loss. If the taxpayer is eligible to qualify under more
31 than one section, the designation is to be made after taking into
32 account subdivision (c).

33 (c) If a taxpayer is eligible to qualify under this section and
34 either Section 24416.4, 24416.5, or 24416.6 as a "qualified
35 taxpayer," with respect to a net operating loss in a taxable year,
36 the taxpayer shall designate which section is to apply to the
37 taxpayer.

38 (d) Notwithstanding Section 24416, the amount of the loss
39 determined under this section, or Section 24416.4, 24416.5, or
40 24416.6 shall be the only net operating loss allowed to be carried

over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 24416.1.

(e) (1) This section shall cease to be operative for taxable years beginning on or after January 1, 2011.

(2) This section shall be repealed as of December 1, 2011.

SEC. 124. Section 24416.4 of the Revenue and Taxation Code is amended to read:

24416.4. (a) The term “qualified taxpayer” as used in Section 24416.1 includes a corporation engaged in the conduct of a trade or business within the Los Angeles Revitalization Zone designated pursuant to the former Section 7102 of the Government Code. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year and, except as provided in subparagraph (B), a net operating loss for any taxable year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated the Los Angeles Revitalization Zone shall be a net operating loss carryover to each following taxable year that ends before the Los Angeles Revitalization Zone expiration date or to each of the 15 taxable years following the taxable year of loss, if longer.

(2) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any taxable year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five years following the taxable year of the loss. Subdivision (b) of Section 24416.1 shall not apply.

(3) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the taxpayer’s business activities within the Los Angeles Revitalization Zone (as defined in the former Section 7102 of the Government Code) prior to the Los Angeles Revitalization Zone expiration date. The attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11, modified as follows:

(A) The loss shall be apportioned to the Los Angeles Revitalization Zone by multiplying the loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

1 (B) “The Los Angeles Revitalization Zone” shall be substituted
2 for “this state.”

3 (4) A net operating loss carryover shall be a deduction only with
4 respect to the taxpayer’s business income attributable to the Los
5 Angeles Revitalization Zone (as defined in the former Section
6 7102 of the Government Code) determined in accordance with
7 subdivision (c).

8 (5) If a loss carryover is allowable pursuant to this section for
9 any taxable year after the Los Angeles Revitalization Zone
10 designation has expired, the Los Angeles Revitalization Zone shall
11 be deemed to remain in existence for purposes of computing the
12 limitation set forth in paragraph (2) and allowing a net operating
13 loss deduction.

14 (6) Attributable income shall be that portion of the taxpayer’s
15 California source business income which is apportioned to the Los
16 Angeles Revitalization Zone. For that purpose, the taxpayer’s
17 business income attributable to sources in this state first shall be
18 determined in accordance with Chapter 17 (commencing with
19 Section 25101). That business income shall be further apportioned
20 to the Los Angeles Revitalization Zone in accordance with Article
21 2 (commencing with Section 25120) of Chapter 17, modified as
22 follows:

23 (A) Business income shall be apportioned to the Los Angeles
24 Revitalization Zone by multiplying total California business income
25 of the taxpayer by a fraction, the numerator of which is the property
26 factor plus the payroll factor, and the denominator of which is 2.

27 (B) The property factor is a fraction, the numerator of which is
28 the average value of the taxpayer’s real and tangible personal
29 property owned or rented and used in the Los Angeles
30 Revitalization Zone during the taxable year and the denominator
31 of which is the average value of all the taxpayer’s real and tangible
32 personal property owned or rented and used in this state during
33 the taxable year.

34 (C) The payroll factor is a fraction, the numerator of which is
35 the total amount paid by the taxpayer in the Los Angeles
36 Revitalization Zone during the taxable year for compensation, and
37 the denominator of which is the total compensation paid by the
38 taxpayer in this state during the taxable year.

39 (7) “Los Angeles Revitalization Zone expiration date” means
40 the date the Los Angeles Revitalization Zone designation expires,

1 is repealed, or becomes inoperative pursuant to the former Section
2 7102, 7103, or 7104 of the Government Code.

3 (b) This section shall be inoperative on the first day of the
4 taxable year beginning on or after the determination date, and each
5 taxable year thereafter, with respect to the taxpayer's business
6 activities within a geographic area that is excluded from the map
7 pursuant to the former Section 7102 of the Government Code, or
8 an excluded area determined pursuant to the former Section 7104
9 of the Government Code. The determination date is the earlier of
10 the first effective date of a determination under the former Section
11 7102 of the Government Code occurring after December 1, 1994,
12 or the first effective date of an exclusion of an area from the
13 amended Los Angeles Revitalization Zone under the former Section
14 7104 of the Government Code. However, if the taxpayer has any
15 unused loss amount as of the date this section becomes inoperative,
16 that unused loss amount may continue to be carried forward as
17 provided in this section.

18 (c) A taxpayer who qualifies as a "qualified taxpayer" under
19 one or more sections shall, for the taxable year of the net operating
20 loss and any taxable year to which that net operating loss may be
21 carried, designate on the original return filed for each year the
22 section that applies to that taxpayer with respect to that net
23 operating loss. If the taxpayer is eligible to qualify under more
24 than one section, the designation is to be made after taking into
25 account subdivision (d).

26 (d) If a taxpayer is eligible to qualify under this section and
27 either Section 24416.2, 24416.5, or 24416.6 as a "qualified
28 taxpayer," with respect to a net operating loss in a taxable year,
29 the taxpayer shall designate which section is to apply to the
30 taxpayer.

31 (e) Notwithstanding Section 24416, the amount of the loss
32 determined under this section or Section 24416.2, 24416.5, or
33 24416.6 shall be the only net operating loss allowed to be carried
34 over from that taxable year and the designation under subdivision
35 (c) shall be included in the election under Section 24416.1.

36 (f) This section shall cease to be operative on December 1, 1998.

37 (g) (1) The changes made to this section by the act adding this
38 subdivision shall apply to taxable years beginning on or after
39 January 1, 2011.

40 (2) This section shall be repealed as of December 1, 2011.

1 SEC. 125. Section 24416.5 of the Revenue and Taxation Code
2 is amended to read:

3 24416.5. (a) For each taxable year beginning on or after
4 January 1, 1995, the term “qualified taxpayer” as used in Section
5 24416.1 includes a taxpayer engaged in the conduct of a trade or
6 business within a LAMBRA. For purposes of this subdivision, all
7 of the following shall apply:

8 (1) A net operating loss shall not be a net operating loss
9 carryback for any taxable year and, except as provided in
10 subparagraph (B), a net operating loss for any taxable year
11 beginning on or after the date the area in which the taxpayer
12 conducts a trade or business is designated a LAMBRA shall be a
13 net operating loss carryover to each following taxable year that
14 ends before the LAMBRA expiration date or to each of the 15
15 taxable years following the taxable year of loss, if longer.

16 (2) In the case of a financial institution to which Section 585,
17 586, or 593 of the Internal Revenue Code applies, a net operating
18 loss for any taxable year beginning on or after January 1, 1984,
19 shall be a net operating loss carryover to each of the five years
20 following the taxable year of the loss. Subdivision (b) of Section
21 24416.1 shall not apply.

22 (3) “LAMBRA” means a local agency military base recovery
23 area designated in accordance with Section 7114 of the Government
24 Code.

25 (4) “Taxpayer” means a bank or corporation that conducts a
26 trade or business within a LAMBRA and, for the first two taxable
27 years, has a net increase in jobs (defined as 2,000 paid hours per
28 employee per year) of one or more employees in the LAMBRA
29 and this state. For purposes of this paragraph, all of the following
30 shall apply:

31 (A) The net increase in the number of jobs shall be determined
32 by subtracting the total number of full-time employees (defined
33 as 2,000 paid hours per employee per year) the taxpayer employed
34 in this state in the taxable year prior to commencing business
35 operations in the LAMBRA from the total number of full-time
36 employees the taxpayer employed in this state during the second
37 taxable year after commencing business operations in the
38 LAMBRA. For taxpayers who commence doing business in this
39 state with their LAMBRA business operation, the number of
40 employees for the taxable year prior to commencing business

1 operations in the LAMBRA shall be zero. The deduction shall be
2 allowed only if the taxpayer has a net increase in jobs in the state,
3 and if one or more full-time employees are employed within the
4 LAMBRA.

5 (B) The total number of employees employed in the LAMBRA
6 shall equal the sum of both of the following:

7 (i) The total number of hours worked in the LAMBRA for the
8 taxpayer by employees (not to exceed 2,000 hours per employee)
9 who are paid an hourly wage divided by 2,000.

10 (ii) The total number of months worked in the LAMBRA for
11 the taxpayer by employees who are salaried employees divided
12 by 12.

13 (C) In the case of a taxpayer that first commences doing business
14 in the LAMBRA during the taxable year, for purposes of clauses
15 (i) and (ii), respectively, of subparagraph (B) the divisors “2,000”
16 and “12” shall be multiplied by a fraction, the numerator of which
17 is the number of months of the taxable year that the taxpayer was
18 doing business in the LAMBRA and the denominator of which is
19 12.

20 (5) “Net operating loss” means the loss determined under
21 Section 172 of the Internal Revenue Code, as modified by Section
22 24416.1, attributable to the taxpayer’s business activities within a
23 LAMBRA prior to the LAMBRA expiration date. The attributable
24 loss shall be determined in accordance with Chapter 17
25 (commencing with Section 25101), modified for purposes of this
26 section as follows:

27 (A) Loss shall be apportioned to a LAMBRA by multiplying
28 total loss from the business by a fraction, the numerator of which
29 is the property factor plus the payroll factor, and the denominator
30 of which is 2.

31 (B) “The LAMBRA” shall be substituted for “this state.”

32 (6) A net operating loss carryover shall be a deduction only with
33 respect to the taxpayer’s business income attributable to a
34 LAMBRA.

35 (7) Attributable income is that portion of the taxpayer’s
36 California source business income that is apportioned to the
37 LAMBRA. For that purpose, the taxpayer’s business income
38 attributable to sources in this state first shall be determined in
39 accordance with Chapter 17 (commencing with Section 25101).
40 That business income shall be further apportioned to the LAMBRA

1 in accordance with Article 2 (commencing with Section 25120)
2 of Chapter 17, modified as follows:

3 (A) Business income shall be apportioned to a LAMBRA by
4 multiplying total California business income of the taxpayer by a
5 fraction, the numerator of which is the property factor plus the
6 payroll factor, and the denominator of which is two. For purposes
7 of this clause:

8 (i) The property factor is a fraction, the numerator of which is
9 the average value of the taxpayer's real and tangible personal
10 property owned or rented and used in the LAMBRA during the
11 taxable year, and the denominator of which is the average value
12 of all the taxpayer's real and tangible personal property owned or
13 rented and used in this state during the taxable year.

14 (ii) The payroll factor is a fraction, the numerator of which is
15 the total amount paid by the taxpayer in the LAMBRA during the
16 taxable year for compensation, and the denominator of which is
17 the total compensation paid by the taxpayer in this state during the
18 taxable year.

19 (B) If a loss carryover is allowable pursuant to this section for
20 any taxable year after the LAMBRA designation has expired, the
21 LAMBRA shall be deemed to remain in existence for purposes of
22 computing the limitation specified in subparagraph (D) and
23 allowing a net operating loss deduction.

24 (8) "LAMBRA expiration date" means the date the LAMBRA
25 designation expires, is no longer binding, or becomes inoperative
26 pursuant to Section 7110 of the Government Code.

27 (b) A taxpayer who qualifies as a "qualified taxpayer" under
28 one or more sections shall, for the taxable year of the net operating
29 loss and any taxable year to which that net operating loss may be
30 carried, designate on the original return filed for each year the
31 section that applies to that taxpayer with respect to that net
32 operating loss. If the taxpayer is eligible to qualify under more
33 than one section, the designation is to be made after taking into
34 account subdivision (c).

35 (c) If a taxpayer is eligible to qualify under this section and
36 either Section 24416.2, 24416.4, or 24416.6 as a "qualified
37 taxpayer," with respect to a net operating loss in a taxable year,
38 the taxpayer shall designate which section is to apply to the
39 taxpayer.

(d) Notwithstanding Section 24416, the amount of the loss determined under this section or Section 24416.2, 24416.4, or 24416.6 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 24416.1.

(e) This section shall apply to taxable years beginning on and after January 1, 1998.

(f) (1) This section shall cease to be operative for taxable years beginning on or after January 1, 2011.

(2) This section shall be repealed as of December 1, 2011.

SEC. 126. Section 24416.6 of the Revenue and Taxation Code is amended to read:

24416.6. (a) For each taxable year beginning on or after January 1, 1998, the term “qualified taxpayer” as used in Section 24416.1 includes a corporation that meets both of the following:

(1) Is engaged in the conduct of a trade or business within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(2) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition. In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer shall be made at the entity level.

(b) For purposes of subdivision (a), all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the qualified taxpayer conducts a trade or business is designated as a targeted tax area shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of loss.

(2) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the qualified taxpayer’s business activities within the targeted tax area (as defined in Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the

Government Code) prior to the targeted tax area expiration date. That attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101), modified for purposes of this section as follows:

(A) Loss shall be apportioned to the targeted tax area by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(B) "The targeted tax area" shall be substituted for "this state."

(3) A net operating loss carryover shall be a deduction only with respect to the qualified taxpayer's business income attributable to the targeted tax area as defined in Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(4) Attributable income is that portion of the taxpayer's California source business income that is apportioned to the targeted tax area. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this subdivision as follows:

(A) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this clause:

(i) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(ii) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(B) If a loss carryover is allowable pursuant to this subdivision for any taxable year after the targeted tax area expiration date, the targeted tax area designation shall be deemed to remain in existence for purposes of computing the limitation specified in subparagraph (B) and allowing a net operating loss deduction.

(5) “Targeted tax area expiration date” means the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(c) A taxpayer who qualifies as a “qualified taxpayer” under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year the section that applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (e).

(d) If a taxpayer is eligible to qualify under this section and either Section 24416.2, 24416.4, or 24416.5 as a “qualified taxpayer,” with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(e) Notwithstanding Section 24416, the amount of the loss determined under this section or Section 24416.2, 24416.4, or 24416.5 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (c) shall be included in the election under Section 24416.1.

(f) This section shall apply to taxable years beginning on or after January 1, 1998.

(g) (1) This section shall cease to be operative for taxable years beginning on or after January 1, 2011.

(2) This section shall be repealed as of December 1, 2011.

SEC. 127. Section 24416.20 of the Revenue and Taxation Code is amended to read:

24416.20. Except as provided in Sections 24416.1 and 24416.7, a net operating loss deduction shall be allowed in computing net income under Section 24341 and shall be determined in accordance with Section 172 of the Internal Revenue Code, except as otherwise provided.

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1987, shall not be allowed.

1 (2) A net operating loss shall not be carried forward to any
2 taxable year beginning before January 1, 1987.

3 (b) (1) Except as provided in paragraphs (2) and (3), the
4 provisions of Section 172(b)(2) of the Internal Revenue Code,
5 relating to amount of carrybacks and carryovers, shall be modified
6 so that the applicable percentage of the entire amount of the net
7 operating loss for any taxable year shall be eligible for carryover
8 to any subsequent taxable year. For purposes of this subdivision,
9 the applicable percentage shall be:

10 (A) Fifty percent for any taxable year beginning before January
11 1, 2000.

12 (B) Fifty-five percent for any taxable year beginning on or after
13 January 1, 2000, and before January 1, 2002.

14 (C) Sixty percent for any taxable year beginning on or after
15 January 1, 2002, and before January 1, 2004.

16 (D) One hundred percent for any taxable year beginning on or
17 after January 1, 2004.

18 (2) In the case of a taxpayer who has a net operating loss in any
19 taxable year beginning on or after January 1, 1994, and who
20 operates a new business during that taxable year, each of the
21 following shall apply to each loss incurred during the first three
22 taxable years of operating the new business:

23 (A) If the net operating loss is equal to or less than the net loss
24 from the new business, 100 percent of the net operating loss shall
25 be carried forward as provided in subdivision (e).

26 (B) If the net operating loss is greater than the net loss from the
27 new business, the net operating loss shall be carried over as
28 follows:

29 (i) With respect to an amount equal to the net loss from the new
30 business, 100 percent of that amount shall be carried forward as
31 provided in subdivision (e).

32 (ii) With respect to the portion of the net operating loss that
33 exceeds the net loss from the new business, the applicable
34 percentage of that amount shall be carried forward as provided in
35 subdivision (d).

36 (C) For purposes of Section 172(b)(2) of the Internal Revenue
37 Code, the amount described in clause (ii) of subparagraph (B) shall
38 be absorbed before the amount described in clause (i) of
39 subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates an eligible small business during that taxable year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the taxable years specified in paragraph (1) of subdivision (e).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as provided in subdivision (e).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (e).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three taxable years of the new business.

(5) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of paragraph (2), paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

1 (6) For purposes of this section, “net loss” means the amount
2 of net loss after application of Sections 465 and 469 of the Internal
3 Revenue Code.

4 (c) For any taxable year in which the taxpayer has in effect a
5 water’s-edge election under Section 25110, the deduction of a net
6 operating loss carryover shall be denied to the extent that the net
7 operating loss carryover was determined by taking into account
8 the income and factors of an affiliated corporation in a combined
9 report whose income and apportionment factors would not have
10 been taken into account if a water’s-edge election under Section
11 25110 had been in effect for the taxable year in which the loss was
12 incurred.

13 (d) Section 172(b)(1) of the Internal Revenue Code, relating to
14 years to which the loss may be carried, is modified as follows:

15 (1) Net operating loss carrybacks shall not be allowed for any
16 net operating losses attributable to taxable years beginning before
17 January 1, 2013.

18 (2) A net operating loss attributable to taxable years beginning
19 on or after January 1, 2013, shall be a net operating loss carryback
20 to each of the two taxable years preceding the taxable year of the
21 loss in lieu of the number of years provided therein.

22 (A) For a net operating loss attributable to a taxable year
23 beginning on or after January 1, 2013, and before January 1, 2014,
24 the amount of carryback to any taxable year shall not exceed 50
25 percent of the net operating loss.

26 (B) For a net operating loss attributable to a taxable year
27 beginning on or after January 1, 2014, and before January 1, 2015,
28 the amount of carryback to any taxable year shall not exceed 75
29 percent of the net operating loss.

30 (C) For a net operating loss attributable to a taxable year
31 beginning on or after January 1, 2015, the amount of carryback to
32 any taxable year shall not exceed 100 percent of the net operating
33 loss.

34 (3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the
35 Internal Revenue Code, relating to special rules for REITs, and
36 Section 172(b)(1)(E) of the Internal Revenue Code, relating to
37 excess interest loss, and Section 172(h) of the Internal Revenue
38 Code, relating to corporate equity reduction interest losses, shall
39 apply as provided.

1 (4) A net operating loss carryback shall not be carried back to
2 any taxable year beginning before January 1, 2011.

3 (e) (1) (A) For a net operating loss for any taxable year
4 beginning on or after January 1, 1987, and before January 1, 2000,
5 Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified
6 to substitute “five taxable years” in lieu of “20 years” except as
7 otherwise provided in paragraphs (2), (3), and (4).

8 (B) For a net operating loss for any income year beginning on
9 or after January 1, 2000, and before January 1, 2008, Section
10 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to
11 substitute “10 taxable years” in lieu of “20 taxable years.”

12 (2) For any income year beginning before January 1, 2000, in
13 the case of a “new business,” the “five taxable years” referred to
14 in paragraph (1) shall be modified to read as follows:

15 (A) “Eight taxable years” for a net operating loss attributable
16 to the first taxable year of that new business.

17 (B) “Seven taxable years” for a net operating loss attributable
18 to the second taxable year of that new business.

19 (C) “Six taxable years” for a net operating loss attributable to
20 the third taxable year of that new business.

21 (3) For any carryover of a net operating loss for which a
22 deduction is denied by Section 24416.3, the carryover period
23 specified in this subdivision shall be extended as follows:

24 (A) By one year for a net operating loss attributable to taxable
25 years beginning in 1991.

26 (B) By two years for a net operating loss attributable to taxable
27 years beginning prior to January 1, 1991.

28 (4) The net operating loss attributable to taxable years beginning
29 on or after January 1, 1987, and before January 1, 1994, shall be
30 a net operating loss carryover to each of the 10 taxable years
31 following the year of the loss if it is incurred by a corporation that
32 was either of the following:

33 (A) Under the jurisdiction of the court in a Title 11 or similar
34 case at any time prior to January 1, 1994. The loss carryover
35 provided in the preceding sentence shall not apply to any loss
36 incurred in an income year after the taxable year during which the
37 corporation is no longer under the jurisdiction of the court in a
38 Title 11 or similar case.

1 (B) In receipt of assets acquired in a transaction that qualifies
2 as a tax-free reorganization under Section 368(a)(1)(G) of the
3 Internal Revenue Code.

4 (f) For purposes of this section:

5 (1) “Eligible small business” means any trade or business that
6 has gross receipts, less returns and allowances, of less than one
7 million dollars (\$1,000,000) during the income year.

8 (2) Except as provided in subdivision (g), “new business” means
9 any trade or business activity that is first commenced in this state
10 on or after January 1, 1994.

11 (3) “Title 11 or similar case” shall have the same meaning as
12 in Section 368(a)(3) of the Internal Revenue Code.

13 (4) In the case of any trade or business activity conducted by a
14 partnership or an “S” corporation, paragraphs (1) and (2) shall be
15 applied to the partnership or “S” corporation.

16 (g) For purposes of this section, in determining whether a trade
17 or business activity qualifies as a new business under paragraph
18 (2) of subdivision (e), the following rules shall apply:

19 (1) In any case where a taxpayer purchases or otherwise acquires
20 all or any portion of the assets of an existing trade or business
21 (irrespective of the form of entity) that is doing business in this
22 state (within the meaning of Section 23101), the trade or business
23 thereafter conducted by the taxpayer (or any related person) shall
24 not be treated as a new business if the aggregate fair market value
25 of the acquired assets (including real, personal, tangible, and
26 intangible property) used by the taxpayer (or any related person)
27 in the conduct of its trade or business exceeds 20 percent of the
28 aggregate fair market value of the total assets of the trade or
29 business being conducted by the taxpayer (or any related person).
30 For purposes of this paragraph only, the following rules shall apply:

31 (A) The determination of the relative fair market values of the
32 acquired assets and the total assets shall be made as of the last day
33 of the first taxable year in which the taxpayer (or any related
34 person) first uses any of the acquired trade or business assets in
35 its business activity.

36 (B) Any acquired assets that constituted property described in
37 Section 1221(1) of the Internal Revenue Code in the hands of the
38 transferor shall not be treated as assets acquired from an existing
39 trade or business, unless those assets also constitute property

1 described in Section 1221(1) of the Internal Revenue Code in the
2 hands of the acquiring taxpayer (or related person).

3 (2) In any case where a taxpayer (or any related person) is
4 engaged in one or more trade or business activities in this state, or
5 has been engaged in one or more trade or business activities in this
6 state within the preceding 36 months (“prior trade or business
7 activity”), and thereafter commences an additional trade or business
8 activity in this state, the additional trade or business activity shall
9 only be treated as a new business if the additional trade or business
10 activity is classified under a different division of the Standard
11 Industrial Classification (SIC) Manual published by the United
12 States Office of Management and Budget, 1987 edition, than are
13 any of the taxpayer’s (or any related person’s) current or prior
14 trade or business activities.

15 (3) In any case where a taxpayer, including all related persons,
16 is engaged in trade or business activities wholly outside of this
17 state and the taxpayer first commences doing business in this state
18 (within the meaning of Section 23101) after December 31, 1993
19 (other than by purchase or other acquisition described in paragraph
20 (1)), the trade or business activity shall be treated as a new business
21 under paragraph (2) of subdivision (e).

22 (4) In any case where the legal form under which a trade or
23 business activity is being conducted is changed, the change in form
24 shall be disregarded and the determination of whether the trade or
25 business activity is a new business shall be made by treating the
26 taxpayer as having purchased or otherwise acquired all or any
27 portion of the assets of an existing trade or business under the rules
28 of paragraph (1) of this subdivision.

29 (5) “Related person” shall mean any person that is related to
30 the taxpayer under either Section 267 or 318 of the Internal
31 Revenue Code.

32 (6) “Acquire” shall include any transfer, whether or not for
33 consideration.

34 (7) (A) For taxable years beginning on or after January 1, 1997,
35 the term “new business” shall include any taxpayer that is engaged
36 in biopharmaceutical activities or other biotechnology activities
37 that are described in Codes 2833 to 2836, inclusive, of the Standard
38 Industrial Classification (SIC) Manual published by the United
39 States Office of Management and Budget, 1987 edition, and as

1 further amended, and that has not received regulatory approval for
2 any product from the United States Food and Drug Administration.

3 (B) For purposes of this paragraph:

4 (i) “Biopharmaceutical activities” means those activities that
5 use organisms or materials derived from organisms, and their
6 cellular, subcellular, or molecular components, in order to provide
7 pharmaceutical products for human or animal therapeutics and
8 diagnostics. Biopharmaceutical activities make use of living
9 organisms to make commercial products, as opposed to
10 pharmaceutical activities that make use of chemical compounds
11 to produce commercial products.

12 (ii) “Other biotechnology activities” means activities consisting
13 of the application of recombinant DNA technology to produce
14 commercial products, as well as activities regarding pharmaceutical
15 delivery systems designed to provide a measure of control over
16 the rate, duration, and site of pharmaceutical delivery.

17 (h) For purposes of corporations whose net income is determined
18 under Chapter 17 (commencing with Section 25101), Section
19 25108 shall apply to each of the following:

20 (1) The amount of net operating loss incurred in any taxable
21 year that may be carried forward to another taxable year.

22 (2) The amount of any loss carry forward that may be deducted
23 in any taxable year.

24 (i) The provisions of Section 172(b)(1)(D) of the Internal
25 Revenue Code, relating to bad debt losses of commercial banks,
26 shall not be applicable.

27 (j) The Franchise Tax Board may prescribe appropriate
28 regulations to carry out the purposes of this section, including any
29 regulations necessary to prevent the avoidance of the purposes of
30 this section through splitups, shell corporations, partnerships, tiered
31 ownership structures, or otherwise.

32 (k) The Franchise Tax Board may reclassify any net operating
33 loss carryover determined under either paragraph (2) or (3) of
34 subdivision (b) as a net operating loss carryover under paragraph
35 (1) of subdivision (b) upon a showing that the reclassification is
36 necessary to prevent evasion of the purposes of this section.

37 (l) Except as otherwise provided, the amendments made by
38 Chapter 107 of the Statutes of 2000 shall apply to net operating
39 losses for taxable years beginning on or after January 1, 2000.

(m) The changes made to this section by the act adding this subdivision shall apply for taxable years beginning on or after January 1, 2011.

SEC. 128. Section 24416.22 of the Revenue and Taxation Code is repealed.

SEC. 129. Section 24416.22 is added to the Revenue and Taxation Code, to read:

24416.22. (a) For any carryover of a net operating loss for which an election under former Section 24416.2, 24416.4, 24416.5, or 24416.6 was made, the net operating loss carryover amount available for carryover under former Section 24416.2, 24416.4, 24416.5, or 24416.6 to the first taxable year beginning on or after January 1, 2011, shall be recalculated by applying the net operating loss rules applicable for the taxable year to which the net operating loss was incurred, as provided in Section 24416.20 or former Section 24416. This recalculated amount, if in excess of zero, shall be added to the amount of any net operating loss attributable to the same taxable year that is available for carryover to the first taxable year beginning on or after January 1, 2011, under Section 24416.20 and shall be treated as if no election under former Section 24416.2, 24416.4, 24416.5, or 24416.6 had been made with respect to that recalculated amount.

(b) To the extent that the application of subdivision (a) reduces the net operating loss carryover amount available for taxable years beginning on or after January 1, 2011, to an amount equal to or less than zero, no amount of net operating loss attributable to this recalculated amount shall be available for carryover to a taxable year beginning on or after January 1, 2011. The application of this section shall not be interpreted to reduce the amount of a net operating loss deduction under former Section 24416, 24416.2, 24416.4, 24416.5, or 24416.6 for any taxable year beginning before January 1, 2011.

SEC. 130. Section 25128 of the Revenue and Taxation Code is amended to read:

25128. (a) (1) Notwithstanding Section 38006, for taxable years beginning before January 1, 2011, all business income shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four, except as provided in subdivision (b) or (c).

1 (2) Notwithstanding Section 38006, for taxable years beginning
2 on or after January 1, 2011, all business income of an apportioning
3 trade or business, other than an apportioning trade or business
4 described in subdivision (b), shall be apportioned to this state by
5 multiplying the business income by the sales factor.

6 (b) If an apportioning trade or business derives more than 50
7 percent of its “gross business receipts” from conducting one or
8 more qualified business activities, all business income of the
9 apportioning trade or business shall be apportioned to this state by
10 multiplying business income by a fraction, the numerator of which
11 is the property factor plus the payroll factor plus the sales factor,
12 and the denominator of which is three.

13 (c) For purposes of this section, a “qualified business activity”
14 means the following:

15 (1) An agricultural business activity.

16 (2) An extractive business activity.

17 (3) A savings and loan activity.

18 (4) A banking or financial business activity.

19 (d) For purposes of this section:

20 (1) “Gross business receipts” means gross receipts described in
21 subdivision (e) or (f) of Section 25120 (other than gross receipts
22 from sales or other transactions within an apportioning trade or
23 business between members of a group of corporations whose
24 income and apportionment factors are required to be included in
25 a combined report under Section 25101, limited, if applicable, by
26 Section 25110), whether or not the receipts are excluded from the
27 sales factor by operation of Section 25137.

28 (2) “Agricultural business activity” means activities relating to
29 any stock, dairy, poultry, fruit, furbearing animal, or truck farm,
30 plantation, ranch, nursery, or range. “Agricultural business activity”
31 also includes activities relating to cultivating the soil or raising or
32 harvesting any agricultural or horticultural commodity, including,
33 but not limited to, the raising, shearing, feeding, caring for, training,
34 or management of animals on a farm as well as the handling,
35 drying, packing, grading, or storing on a farm any agricultural or
36 horticultural commodity in its unmanufactured state, but only if
37 the owner, tenant, or operator of the farm regularly produces more
38 than one-half of the commodity so treated.

1 (3) “Extractive business activity” means activities relating to
2 the production, refining, or processing of oil, natural gas, or mineral
3 ore.

4 (4) “Savings and loan activity” means any activities performed
5 by savings and loan associations or savings banks which have been
6 chartered by federal or state law.

7 (5) “Banking or financial business activity” means activities
8 attributable to dealings in money or moneyed capital in substantial
9 competition with the business of national banks.

10 (6) “Apportioning trade or business” means a distinct trade or
11 business whose business income is required to be apportioned
12 under Sections 25101 and 25120, limited, if applicable, by Section
13 25110, using the same denominator for each of the applicable
14 payroll, property, and sales factors.

15 (7) Paragraph (4) of subdivision (c) shall apply only if the
16 Franchise Tax Board adopts the Proposed Multistate Tax
17 Commission Formula for the Uniform Apportionment of Net
18 Income from Financial Institutions, or its substantial equivalent,
19 and shall become operative upon the same operative date as the
20 adopted formula.

21 (8) In any case where the income and apportionment factors of
22 two or more savings associations or corporations are required to
23 be included in a combined report under Section 25101, limited, if
24 applicable, by Section 25110, both of the following shall apply:

25 (A) The application of the more than 50 percent test of
26 subdivision (b) shall be made with respect to the “gross business
27 receipts” of the entire apportioning trade or business of the group.

28 (B) The entire business income of the group shall be apportioned
29 in accordance with either subdivision (a) or (b), as applicable.

30 SEC. 131. Section 25128.5 of the Revenue and Taxation Code
31 is repealed.

32 SEC. 132. Section 25136 of the Revenue and Taxation Code
33 is amended to read:

34 25136. (a) For taxable years beginning before January 1, 2011,
35 sales, other than sales of tangible personal property, are in this
36 state if:

37 (1) The income-producing activity is performed in this state; or

38 (2) The income-producing activity is performed both in and
39 outside this state and a greater proportion of the income-producing

1 activity is performed in this state than in any other state, based on
2 costs of performance.

3 (b) This section shall not apply to taxable years beginning on
4 or after January 1, 2011, and as of December 31, 2011, is repealed.

5 SEC. 133. Section 25136 is added to the Revenue and Taxation
6 Code, to read:

7 25136. (a) Notwithstanding Section 38006, for taxable years
8 beginning on or after January 1, 2011, sales, other than sales of
9 tangible personal property, are in this state if:

10 (1) Sales from services are in this state to the extent the
11 purchaser of the service received the benefit of the services in this
12 state.

13 (2) Sales from intangible property are in this state to the extent
14 the property is used in this state. In the case of marketable
15 securities, sales are in this state if the customer is in this state.

16 (3) Sales from the sale, lease, rental, or licensing of real property
17 are in this state if the real property is located in this state.

18 (4) Sales from the rental, lease, or licensing of tangible personal
19 property are in this state if the property is located in this state.

20 (b) The Franchise Tax Board may prescribe regulations as
21 necessary or appropriate to carry out the purposes of this section.

22 SEC. 134. Section 1661 of the Vehicle Code is amended to
23 read:

24 1661. (a) (1) Except for vehicles registered pursuant to Article
25 5 (commencing with Section 9700) of Chapter 6 of Division 3, the
26 department shall notify the registered owner of each vehicle of the
27 date that the registration renewal fees for the vehicle are due, at
28 least 60 days prior to that due date. The department shall indicate
29 the fact that the required notice was mailed by a notation in the
30 department's records.

31 (2) Notwithstanding paragraph (1), commencing on June 8,
32 2011, the department shall notify the registered owner of each
33 vehicle, except a vehicle registered pursuant to Article 5
34 (commencing with Section 9700) of Chapter 6 of Division 3, that
35 the registration renewal fees for the vehicle are due, at least 30
36 days prior to that due date. This paragraph shall become inoperative
37 on January 1, 2012.

38 (b) The department shall include in any final notice of delinquent
39 registration provided to the registered owner of a vehicle whose
40 registration has not been properly renewed as required under this

1 code, information relating to the potential removal and
2 impoundment of that vehicle under subdivision (o) of Section
3 22651.

4 SEC. 135. Section 4601 of the Vehicle Code is amended to
5 read:

6 4601. (a) Except as otherwise provided in this code, a vehicle
7 registration and registration card expires at midnight on the
8 expiration date designated by the director pursuant to Section
9 1651.5, and shall be renewed prior to the expiration of the
10 registration year. The department may, upon payment of the proper
11 fees, renew the registration of vehicles.

12 (b) Notwithstanding any other provision of law, renewal of
13 registration for any vehicle that is either currently registered or for
14 which a certification pursuant to Section 4604 has been filed may
15 be obtained not more than 75 days prior to the expiration of the
16 current registration or certification.

17 (c) Notwithstanding subdivision (b) or any other law,
18 commencing on June 8, 2011, the renewal of registration for a
19 vehicle that expires on or before June 30, 2011, may be obtained
20 not more than 75 days prior to the expiration of the current
21 registration or certification and the renewal of registration for a
22 vehicle that expires on or after July 1, 2011, or for which a
23 certification, pursuant to Section 4604 has been filed, may be
24 obtained not more than 15 days prior to the expiration of the current
25 registration or certification. This subdivision shall become
26 inoperative on July 1, 2011.

27 SEC. 136. Section 5902.5 of the Vehicle Code is amended to
28 read:

29 5902.5. (a) If an application for a registration transaction is
30 filed with the department during the 30 days immediately preceding
31 the date of expiration of registration of the vehicle, the application
32 shall be accompanied by the full renewal fees for the ensuing
33 registration year in addition to any other fees that are due and
34 payable.

35 (b) Notwithstanding subdivision (a), commencing on the date
36 that this subdivision becomes operative, if an application for a
37 registration transaction is filed with the department during the 10
38 days immediately preceding the date of expiration of registration
39 of the vehicle, the application shall be accompanied by the full
40 renewal fees for the ensuing registration year in addition to any

1 other fees that are due and payable. This subdivision shall become
2 inoperative on July 1, 2011.

3 SEC. 137. Section 9552 of the Vehicle Code is amended to
4 read:

5 9552. (a) If a vehicle is operated upon a highway of this state
6 without the fees first having been paid as required by this code,
7 and those fees have not been paid within 20 days of its first
8 operation, those fees are delinquent, except as provided in
9 subdivision (b).

10 (b) (1) Fees are delinquent if an application for renewal of
11 registration, or an application for renewal of special license plates,
12 is made after midnight of the expiration date of the registration or
13 special plates, or 60 days after the date the registered owner is
14 notified by the department pursuant to Section 1661, whichever
15 is later.

16 (2) Notwithstanding paragraph (1), commencing on June 8,
17 2011, fees are delinquent if an application for renewal of
18 registration, or an application for renewal of special license plates,
19 is made after midnight of the expiration date of the registration or
20 special plates, or 30 days after the date the registered owner is
21 notified by the department pursuant to Section 1661, whichever
22 is later. This paragraph shall become inoperative on January 1,
23 2012.

24 (c) If a person has received as transferee a properly endorsed
25 certificate of ownership and the transfer fee has not been paid as
26 required by this code within 10 days, the fee is delinquent.

27 (d) If a person becomes an automobile dismantler, dealer,
28 manufacturer, manufacturer branch, distributor, distributor branch,
29 or transporter without first having paid the license and special plate
30 fees as required by this code, the fees are delinquent.

31 SEC. 138. Section 14301.11 of the Welfare and Institutions
32 Code is amended to read:

33 14301.11. (a) The department shall use funds attributable to
34 the tax on Medi-Cal managed care plans imposed by Section 12201
35 of the Revenue and Taxation Code for the purpose specified in
36 paragraph (1) of subdivision (b) of Section 12201 of the Revenue
37 and Taxation Code.

38 (b) This section shall become inoperative on January 1, 2014,
39 and, as of July 1, 2014, is repealed, unless a later enacted statute,

1 that becomes operative on or before July 1, 2014, deletes or extends
2 the dates on which it becomes inoperative and is repealed.

3 SEC. 139. No reimbursement is required by this act pursuant
4 to Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

12 SEC. 140. This act addresses the fiscal emergency declared
13 and reaffirmed by the Governor by proclamation on January 20,
14 2011, pursuant to subdivision (f) of Section 10 of Article IV of
15 the California Constitution.

16 SEC. 141. The Director of Finance shall immediately notify
17 the Joint Legislative Budget Committee, the Executive Officer of
18 the Franchise Tax Board, the Executive Director of the State Board
19 of Equalization, and the Director of Motor Vehicles when and if
20 a ballot measure is approved, at a statewide election held during
21 the 2011 calendar year, that extends the vehicle license fee rate
22 increase that would otherwise become inoperative on July 1, 2011,
23 imposed pursuant to Part 5 (commencing with Section 10701) of
24 Division 2 of the Revenue and Taxation Code and applicable to
25 vehicle registrations on or before June 30, 2011, to a date
26 subsequent to that date.

27 SEC. 142. This act is a bill providing for appropriations related
28 to the Budget Bill within the meaning of subdivision (e) of Section
29 12 of Article IV of the California Constitution, has been identified
30 as related to the budget in the Budget Bill, and shall take effect
31 immediately.

32 SEC. 143. This act is an urgency statute necessary for the
33 immediate preservation of the public peace, health, or safety within
34 the meaning of Article IV of the Constitution and shall go into
35 immediate effect. The facts constituting the necessity are:

36 In order to make changes necessary for implementation of the
37 Budget Act of 2011, it is necessary that this act take effect
38 immediately.

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